

S. B. No. 12, was reported favorably with the recommendation that it do pass and be not printed, since the same had been mimeographed, by the following vote:

Yeas: Blackert, Hopkins, Moore, Rawlings, Regan, Shivers, Stone, Sulak.

Nays: Collie, Cotten, DeBerry, Hornsby, Isbell, Oneal.

S. B. No. 14, was reported favorably with the recommendation that it do pass and be not printed, since an advance printing had been had thereon by the following vote:

Yeas: Blackert, Hopkins, Moore, Rawlings, Regan, Shivers, Stone, Sulak.

Nays: Collie, Cotten, DeBerry, Hornsby, Isbell, Oneal.

S. B. No. 16, was reported favorably with the recommendation that it do pass and be not printed, since an advance printing had been had thereon, by the following vote:

Yeas: Blackert, Hopkins, Moore, Rawlings, Regan, Shivers, Stone, Sulak.

Nays: Collie, Cotten, DeBerry, Hornsby, Isbell, Oneal.

S. B. No. 17, was reported favorably with the recommendation that it do pass and be printed, by the following vote:

Yeas: Blackert, Hopkins, Moore, Rawlings, Regan, Shivers, Stone, Sulak.

Nays: Collie, Cotten, DeBerry, Hornsby, Isbell, Oneal.

S. B. No. 13, was reported with the recommendation that it do not pass by the following vote:

Yeas: Blackert, Holbrook, Hopkins, Moore, Rawlings, Regan, Shivers, Stone, Sulak.

Nays: Collie, Cotten, DeBerry, Hornsby, Isbell, Oneal.

Minority report was filed.

ELIZABETH SUITER,  
Secretary.

Minutes of Committee on State  
Affairs, Held Nov. 4, 1935.

Called Meeting.

Present: Pace, Blackert, Collie, Cotten, DeBerry, Holbrook, Hopkins, Hornsby, Isbell, Martin, Moore, Oneal, Rawlings, Redditt, Regan, Shivers, Stone and Sulak.

Absent—Excused: Fellbaum and Small.

H. B. No. 46 was discussed, but no action taken.

ELIZABETH SUITER, Secretary.

Minutes of Committee on State  
Affairs, Held Nov. 5, 1935.

Called Meeting.

Present: Pace, Blackert, Collie, Cotten, DeBerry, Holbrook, Hopkins, Hornsby, Isbell, Martin, Moore, Oneal, Rawlings, Regan, Redditt, Shivers, Stone and Sulak.

Absent—Excused: Fellbaum and Small.

H. B. No. 46 was reported favorably with the recommendation that it do pass and be printed with Committee Amendments Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 by a viva voce vote.

H. C. R. No. 7 was reported favorably with the recommendation that it do pass and be not printed by a viva voce vote.

H. C. R. No. 8 was reported favorably with the recommendation that it do pass and be not printed by a viva voce vote.

H. B. No. 93 was reported favorably with the recommendation that it do pass and be not printed by a viva voce vote.

ELIZABETH SUITER, Secretary

#### ELEVENTH DAY (Cont'd).

Senate Chamber,  
Austin, Texas,  
November 8, 1935.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Walter F. Woodul.

#### House Bill No. 46.

Pending business was H. B. No. 46.

#### S. C. R. No. 13.

Senator Burns received unanimous consent to suspend the regular order of business and sent up the following resolution:

Whereas, Hon. Paul V. McNutt, Governor of the great State of Indiana, will be in Austin on Tuesday, November 12, 1935; and

Whereas, the said Governor McNutt was formerly Dean of the Law School of the University of Indiana, the past president of the American Legion, is a great orator and one of the leaders in the Democratic councils of the Nation:

Now, Therefore, Be It Resolved By the Senate, the House concurring, That Governor McNutt be invited to address a joint session of the Legislature Tuesday morning, November 12, 1935, at 11:15 a. m., and that the Speaker of the House and the Lieutenant Governor appoint a committee, three from the House and three from the Senate, to make necessary arrangements.

BURNS,  
SHIVERS,  
HOPKINS.

Read.

Senator Burns moved to suspend the rule requiring resolutions be referred to a committee.

The motion prevailed.

S. C. R. No. 13 was unanimously adopted.

The Chair appointed the following committee in accordance with S. C. R. No. 13:

Senators Burns, Shivers and Hopkins.

#### Message From the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following message:

Hall of the House of Representatives,  
Austin, Texas, Nov. 8, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Free Conference Committee report on H. B. No. 26 by a vote of 112 yeas and 26 nays.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Senator Pace received unanimous consent to suspend the regular order of business and sent up committee reports.

Senator Rodditt received unanimous consent to suspend the regular order of business and sent up committee reports.

#### House Bill No. 46.

Pending business was Committee Amendment No. 17 with pending substitute by Senator Davis.

Senator Small sent up the following amendment to the substitute of-

fered by Senator Davis for Committee Amendment No. 17.

Amend the pending substitute by striking out the first sentence and adding in lieu the following:

"An annual occupation tax equivalent to three and one-half per cent of the value of all natural gas produced within this State or sold if imported into this State, as and when produced within this State, or upon the first sale within this State."

SMALL.

Read and pending.

#### Senate Resolution No. 16.

Senator Shivers was recognized and received unanimous consent to suspend the regular order of business and sent up the following resolution:

Whereas, Former Governor Ross Sterling is now in the Legislative halls,

Therefore, Be It Resolved by the Senate of Texas, That this distinguished citizen be given the privileges of the floor and invited to address the Senate.

MOORE,  
SHIVERS,  
HOPKINS,  
REDDITT.

Read and adopted.

The Chair appointed Senators Moore, Shivers and Beck to escort the distinguished visitor to the speaker's stand.

Lieutenant Governor Walter F. Woodul introduced the distinguished Former Governor Ross Sterling, who addressed the Senate briefly.

#### House Bill No. 46.

Senator Hill was recognized to speak on the pending amendment.

Senator Hill yielded to Senator Shivers for a privileged motion.

#### House Bill No. 26.

Senator Shivers called up the Conference Committee report on H. B. No. 26 and moved the adoption of the report.

Motion pending.

Senator Shivers yielded to Senator Beck.

**Motion to Recess.**

Senator Beck at 12:01 o'clock p. m. moved that the Senate recess until 2 o'clock p. m.

Motion pending.

Senator Beck yielded to Senator Collie for a privileged motion.

**House Bill No. 72.**

Senator Collie sent up the Conference Committee report on H. B. No. 72 and moved the adoption of the report.

Committee Room,

Austin, Texas, Nov. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the House and Senate on H. B. No. 72, by Lindsey.

H. B. No. 72, A bill to be entitled "An Act authorizing the commissioners' court in certain counties to allow each county commissioner certain expenses for traveling in connection with official business; providing the funds; providing for filing of itemized accounts, and declaring an emergency."

Have had the same under consideration and beg leave to report back with the recommendation that the bill be passed in the attached form.

LINDSEY,  
SMITH,  
JONES OF WISE,  
PALMER,  
SESSIONS.

On the part of the House.

COLLIE,  
DAVIS,  
BURNS,  
SANDERFORD,  
WOODRUFF.

On the part of the Senate.

By Lindsey.

H. B. No. 72.

**A BILL****To Be Entitled**

An Act authorizing the Commissioners' Court in certain counties to allow each County Commissioner certain expenses for traveling in connection with official business; providing the funds; providing for filing of itemized accounts, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. In any county in this State having a population of not less than twenty-four thousand, two hundred (24,200) and not more than twenty-four thousand, five hundred (24,500), and in any county having a population of not less than twelve thousand, two hundred (12,200) and not more than twelve thousand three hundred (12,300), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Twenty-five Dollars (\$25) per month for traveling expenses within the county while on official business which said sum shall be paid out of the Road and Bridge Fund of the respective Commissioner's precinct, and/or the General Fund of the county not to exceed fifty (50%) per cent of said expenses, and each Commissioner shall make under oath an itemized account of his expenses for each month.

Sec. 2. In any county in this State having a population of not less than thirty-two thousand, eight hundred (32,800) and not more than thirty-two thousand, eight hundred fifty, according to the last Federal Census Report, and having a Special Road Law for such County, the Commissioners' Court is hereby authorized to allow to each commissioner the sum of fifty dollars (\$50.00) per month, payable out of the Road and Bridge Fund of such county, for expenses incurred within the county while on official business, and each commissioner shall make a certified itemized report to the commissioners' court each month showing expenses incurred for which refund is claimed.

Sec. 3. In any county in this State having a population of not less than nineteen thousand, one hundred seventy-five (19,175) and not more than nineteen thousand, two hundred (19,200), according to the last Federal Census Report, the Commissioners' Court is hereby authorized to allow each Commissioner the sum of fifty dollars (\$50.00) per month for expenses when incurred while on official business, payable out of the Road and Bridge Fund of such county, upon the certified, item-

ized monthly report of the commissioner claiming the refund of such expenses.

Sec. 4. The fact that in the Class of Counties affected by this Act the salaries fixed by Statute for Commissioners are inadequate to compensate and to pay such officials' expenses, and the further fact that the Commissioners in such counties, under the law as it now exists, are required to furnish their own conveyances, to pay the upkeep of same, and the further fact that such Commissioners have an exceptional territory to serve and to supervise in the maintenance, constructing and repairing the roads therein situated with attendant increase of expenses, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Act shall take effect and be in force from and after its passage and said Rule is hereby suspended, and it is so enacted.

Read and adopted by the following vote:

Yeas—29.

Beck.	Oneal.
Blackert.	Pace.
Burns.	Poage.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Regan.
Hill.	Sanderford.
Holbrook.	Shivers.
Hopkins.	Small.
Hornsby.	Stone.
Isbell.	Sulak.
Martin.	Van Zandt.
Moore.	Westerfeld.
Neal.	Woodruff.
Nelson.	

Absent—Excused.

DeBerry. Fellbaum.

Recess.

The motion to recess prevailed by viva voce vote.

After Recess.

The Senate met at 2 o'clock p. m. pursuant to recess and was called to order by Lieutenant Governor Walter F. Woodul.

Senator Davis received unanimous consent to suspend the regular order

of business and sent up the following resolutions:

S. C. R. No. 14.

Whereas, There are now in the custody of the Texas Relief Commission, Division of the State Board of Control, in the various Relief Offices throughout the State of Texas, many surplus pieces of office furniture, fixtures, machines and other property which have been purchased out of State and Federal Funds and used in connection with the administration of Federal and State Relief, and as relief will be discontinued, this equipment, furniture, machines and other property so being used will be on hand; and,

Whereas, This property has had hard use and some of it is in such bad condition and some of it so bulky that it would hardly be worth the cost of crating and transporting it to Austin, and the sale thereof at its present location would prove an economic loss to the taxpayers in general when it could be transferred to various State and County Government agencies which actually need it; now, therefore, be it

Resolved By the Senate of the State of Texas, the House of Representatives concurring, That the State Board of Control be, and it is hereby authorized to transfer or sell any of said office equipment, fixtures, machines and property for public use only to State or County Government agencies which have need for such property, and take their receipts for same, and sell any other of said property to the best advantage or store same for future use, within the discretion of said Board.

DAVIS,  
WOODRUFF,  
SMALL,  
ONEAL.

Senator Davis asked unanimous consent to suspend the Senate rule requiring resolutions be referred to a committee.

Unanimous consent was granted.

S. C. R. No. 14 was adopted by viva voce vote.

S. C. R. No. 15.

Whereas, There have accrued voluminous files and records at Austin, Texas, and in every County in Texas,

pertaining to Federal and State Administration of relief and all activities connected with relief during the last several years, and the State has no available space for storing these records and files; and

Whereas, It now seems probable that the Federal Government out of Federal Funds will erect, or make an allowance of money for the erection of a building in Texas for the storage and preservation of these important records and files, provided the State will provide the land upon which the building may be erected; and,

Whereas, These Relief records and files throughout the State of Texas should be assembled, stored and preserved for the benefit of Texas, as well as for the benefit of the Federal Government; therefore, be it

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the State Board of Control be, and it is hereby authorized to designate some site on State-owned lands under its control and management in or near Austin, Texas, but not on the Capitol Grounds or on the block in front of the Governor's Mansion, for the purpose of accepting such building to house and preserve State and Federal Relief Administration records, reports and files; and that said Board of Control be and is hereby authorized to negotiate with and conclude all arrangements with the Federal Government which may be necessary to secure said building.

WOODRUFF,  
SMALL,  
DAVIS,  
ONEAL.

Read.

Senator Davis asked unanimous consent to suspend the Senate rule requiring resolutions to be referred to a committee.

Unanimous consent was granted.

S. C. R. No. 15 was adopted by viva voce vote.

#### Senate Bill No. 30.

By Senator Regan:

S. B. No. 30, A bill to be entitled "An Act authorizing cities having a population of more than 3,500 and not exceeding 4,000 inhabitants, and which are not served either by a

natural gas or artificial gas distribution system to acquire by purchase or otherwise a system to make available and to distribute to their inhabitants who subscribe for the service, a gas for fuel and lighting purposes manufactured and compounded in the manner herein prescribed; adopting by reference the procedure for the issuance of other revenue bonds, notes and warrants, as prescribed in Articles 1111 to 1118, of the Revised Civil Statutes of 1925, as amended and in Chapter 163, Acts of the Regular Session of the Forty-second Legislature, prescribing that the provisions of this Act are cumulative of all other laws and declaring an emergency."

Read and referred to the Committee on State Affairs.

#### Senator Excused.

Senator Rawlings was excused for the remainder of the day and Saturday on account of important business, on motion of Senator Regan.

#### Bill and Resolutions Signed.

The Chair, Lieutenant Governor Walter F. Woodul, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bill and resolutions:

H. B. No. 72.  
S. C. R. No. 4.  
S. C. R. No. 13.

#### Messages From the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House, with the following messages:

Hall of the House of Representatives,  
Austin, Texas, Nov. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Free Conference Committee report on H. B. No. 72, by a vote of 123 yeas and 0 nays.

The House has passed the following resolutions:

S. C. R. No. 4, Authorizing the investors of the insolvent Texas National Bank, of Fort Worth, Texas, to sue the State of Texas for property damages.

S. C. R. No. 13, Inviting the Hon. Paul V. McNutt, Governor of the State of Indiana, to address a joint session of the House of Representatives and Senate Tuesday, November 12, 1935, at 11:15 o'clock a. m.

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, Nov. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

H. C. R. No. 11, Granting the J. D. George Construction Co., and the Valley Dredging Co., permission to sue the State of Texas and/or the State Highway Commission of Texas for property damages.

H. C. R. No. 15, Granting Mrs. Fannie Williams permission to sue the State of Texas for property damage.

H. C. R. No. 20, Requesting the members of Congress from Texas to take such action as may be necessary to bring about the appropriation of funds to complete the Army Construction Program in the State of Texas.

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### House Bill No. 26.

Senator Shivers had the floor on his pending motion to adopt the Conference Committee report on H. B. No. 26.

Senator Davis moved as a substitute to lay on the table subject to call the Conference Committee report on H. B. No. 26.

Motion pending.

Senator Sanderford was recognized to speak.

#### House Bill No. 46.

Senator Sanderford yielded to Senator Stone who received unanimous consent to lay H. B. No. 46 on the table subject to call.

#### Senate Bill No. 27.

Senator Stone received unanimous consent to take up S. B. No. 27.

The Chair laid before the Senate the following bill:

By Senator Poage:

S. B. No. 27, A bill to be entitled "An Act making an appropriation out of the general revenue funds of the State of Texas for the Brazos River Conservation and Reclamation District, to aid said district to start immediate work on its program of construction; said funds to be returned to the State of Texas, and declaring an emergency."

On motion of Senator Stone the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 27 was put on its third reading and final passage by the following vote:

#### Yeas—28.

Beck.	Nelson.
Blackert.	Oneal.
Burns.	Pace.
Collie.	Poage.
Cotten.	Redditt.
Davis.	Regan.
DeBerry.	Sanderford.
Hill.	Shivers.
Hopkins.	Small.
Hornsby.	Stone.
Isbell.	Sulak.
Martin.	Van Zandt.
Moore.	Westerfeld.
Neal.	Woodruff.

#### Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	

Read third time and finally passed by the following vote:

#### Yeas—25.

Beck.	Oneal.
Blackert.	Poage.
Burns.	Redditt.
Collie.	Regan.
Cotten.	Sanderford.
Davis.	Shivers.
Hopkins.	Small.
Hornsby.	Stone.
Isbell.	Sulak.
Martin.	Van Zandt.
Moore.	Westerfeld.
Neal.	Woodruff.
Nelson.	

#### Nays—3.

DeBerry.	Pace.
Hill.	

## Absent—Excused.

Fellbaum. Rawlings.  
Holbrook.

## House Bill No. 26.

## Conference Committee Report.

The question recurred on the pending motion and pending substitute motion.

The substitute motion lost by the following vote:

## Yeas—9.

Davis. Small.  
Martin. Stone.  
Moore. Westerfeld.  
Neal. Woodruff.  
Sanderford.

## Nays—18.

Beck. Isbell.  
Blackert. Nelson.  
Burns. Oneal.  
Collie. Pace.  
Cotten. Poage.  
DeBerry. Redditt.  
Hill. Shivers.  
Hopkins. Sulak.  
Hornsby. Van Zandt.

## Absent—Excused.

Fellbaum. Rawlings.  
Holbrook. Regan.

Senator Collie sent up the following substitute motion:

Substitute motion for the Shivers motion:

Mr. President: I move that the Conference Committee report on H. B. No. 26 be rejected and the committee be instructed to rewrite Section 6 and change the administrative cost from five per cent to not exceed two and one-half (2½) per cent; that the last five lines of sub-Section (a) of Section q be stricken out of the report; that sub-Section (f) of Section 1 be made to mean specifically the net income, exclusive of all taxes, insurance and payments of interest on the property of his or her designated homestead; that sub-Section (b) of Section 11 be written so that the payments of the pensions must commence without delay; that the committee be instructed to report back not later than Monday, November 11.

COLLIE.

Read.

## Previous Question.

Senator Shivers moved that the Senate order the previous question on the motion to adopt the Conference Committee report on H. B. No. 26 and the pending substitute.

The motion was seconded.

The previous question was ordered by viva voce vote.

The substitute offered by Senator Collie was lost by the following vote:

## Yeas—11.

Collie. Small.  
Davis. Stone.  
Hill. Sulak.  
Isbell. Westerfeld.  
Martin. Woodruff.  
Sanderford.

## Nays—16.

Beck. Neal.  
Blackert. Nelson.  
Burns. Oneal.  
Cotten. Pace.  
DeBerry. Poage.  
Hopkins. Redditt.  
Hornsby. Shivers.  
Moore. Van Zandt.

## Absent—Excused.

Fellbaum. Rawlings.  
Holbrook. Regan.

The question recurred on the motion to adopt the Conference Committee report on H. B. No. 26.

The motion prevailed by the following vote:

## Yeas—20.

Beck. Neal.  
Burns. Nelson.  
Cotten. Oneal.  
Davis. Pace.  
DeBerry. Poage.  
Hill. Redditt.  
Hopkins. Shivers.  
Hornsby. Stone.  
Isbell. Van Zandt.  
Moore.

## Nays—5.

Blackert. Sulak.  
Collie. Westerfeld.  
Sanderford. Woodruff.

## Absent—Excused.

Holbrook. Regan.

(Pairs Recorded.)

Senator Small (present) who would vote nay, with Senator Rawlings (absent) who would vote yea.

Senator Martin (present) who would vote nay, with Senator Felbaum (absent) who would vote yea.

#### Reasons for Vote on H. B. No. 26.

In voting for this bill, I do so because I realize that some character of relief must now be afforded to those over sixty-five years of age, and to reject it would mean considerable delay in securing this relief.

It is my candid opinion that it should be more liberal in its provisions for the support of the aged of this State. I hope to have the opportunity of aiding in broadening its provisions.

COTTEN.

I voted against the Free Conference Committee report on H. B. No. 26 for the following reasons:

1. It does not meet the requirements of the Constitutional Amendment adopted by the people at the polls, in that it discriminates against a large number of people who, under the constitutional amendment expected, and had a right to expect, pensions for all citizens over the age of 65 years regardless of property ownership or income.

2. It grossly discriminates against the people of my district; a people who are thrifty, hard working, home loving, most of whom have provided themselves with homes and who have gross incomes which, when taxes, insurance, upkeep of their property is deducted, leaves them insufficient funds to live in reasonable comfort, and yet, under the terms of this bill will be disqualified.

3. It sets up a system of administration which is both expensive and inefficient and will be a repetition of the relief set-up, with its social workers and home inspectors, and supervisors, etc., who will discriminate in the approving of pensions, which is permitted under this bill, and which will result in waste of public funds, funds which should go to the aged people of our State instead of going to the social workers.

4. It surrenders the rights of this State to the Federal Government and

particularly to the Social Security Board, and in that respect is in direct conflict with the mandate of the people to set up a State pension system for the aged of our State.

5. It delays payment of pensions until July 1, 1936, which is unjust and unfair to those who are suffering privations, and who, in the next few weeks, will be off relief and who will become destitute.

6. I believe that had the Conference Committee report been rejected, and a new Conference Committee appointed, a more liberal Pension Bill would have been brought in.

7. It permits the setting up of rules and regulations which will place the authority in a board to determine the standard of living, and discriminate between persons in like circumstances just because one has been economical, a smaller amount may be paid to him and a larger amount to the one who had been a spendthrift and had been accustomed to living beyond his means.

8. It sets up a political machine which will be used to perpetuate politicians in office at the expense of the aged people of this State.

9. It penalizes thrift and rewards thriftlessness, and does violence to the principle of "equal rights to all and special privilege to none."

10. It makes possible discrimination on the grounds of politics, rewarding those who vote according to the wishes of a political board and penalizing those who vote their own convictions.

11. Because the people of my district are overwhelmingly against such discriminatory measure and have by petitions, letters, and personally appealed to me to vote against any pension bill which does not provide pensions for all citizens over 65 years of age qualifying under the constitutional amendment.

SULAK.

Mr. President: I vote nay on adopting the Conference Committee report on H. B. No. 26, providing for Old Age Assistance, for the following reasons:

1. Sub-Section (f) of Section 2, is an unfair discrimination against citizens engaged in farming.

2. The administrative expense of 5% is too high.



3. Section 9 of the report provides for discriminatory payments in favor of those whose conditions have permitted them to enjoy heretofore a higher standard of living, and against those less fortunate ones who have never been able to enjoy the better conditions of life.

4. No provision is carried in the bill for the levy and collection of revenues to pay the benefits stipulated.

5. The bill provides for payments to be delayed until July 1, 1936, too late to take care of the many worthy aged citizens who have no means of support in the meantime.

6. I voted to return the bill to Conference for further consideration.

7. I favored, and earlier in the session, voted for adequate Old Age Assistance benefits.

WOODRUFF.

The Conference Committee report on the Old Age Assistance bill was not what I wanted and not what I believe the people want. Obviously if the bill were not passed now we might not get a bill, hence my vote.

HILL.

I voted against the Free Conference Committee report, or the Old Age Pension bill, for the following reasons:

First, the bill is too restricted. When those persons that could ordinarily qualify can then be cut off by a board with as little as one dollar per month. It would be of little or no benefit to the people over 65 years of age, and further, it is not what was voted.

Second, it will exclude thousands of honest, law-abiding, and self-respecting citizens over 65, who will not make a pauper's affidavit.

Third, the pension should begin at once and not on July 1, 1936.

Fourth, the bill tends to make and induce every person who reaches the age of 65 to become a pauper.

Fifth, it sets up a political machine, whereby as much will be spent by the hundreds of employees trying to find those persons that will say and prove that they are paupers, as will be paid out in pensions.

Sixth, the revenue bill will not pay over \$1.50 per month to each pensioner. It is not a pension bill, but a small relief bill, which will have

a set-up comparable to the present relief organization.

Seventh, I believe the people voted for a pension to all persons over 65 years of age.

Eighth, if the Legislature would tax Texas' natural resources a reasonable amount, all people over 65 in Texas could be paid \$15.00 per month, without levying a sales tax on poverty to pay poverty.

WESTERFELD.

Senator Small moved to suspend the regular order of business and take up H. B. No. 77.

The motion prevailed by the following vote:

Yeas—26.

Beck.	Nelson.
Blackert.	Oneal.
Burns.	Pace.
Collie.	Poage.
Cotten.	Redditt.
Davis.	Sanderford.
DeBerry.	Shivers.
Hill.	Small.
Hopkins.	Stone.
Hornsby.	Sulak.
Isbell.	Van Zandt.
Martin.	Westerfeld.
Neal.	Woodruff.

Nays—1.

Moore.

Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

House Bill No. 77.

The Chair laid before the Senate on its second reading the following bill:

H. B. No. 77, A bill to be entitled "An Act defining the term 'open saloon'; creating a Board of Liquor Control; prescribing rules and regulations, and regulating the manufacture, sale, importation, transportation, and possession of alcoholic liquors; providing for the right of local option; etc., and declaring an emergency."

(With committee substitute.)

Senator Moore called for a reading of the committee substitute.

Senator Small moved that the reading of the substitute be dispensed with.

The motion prevailed by viva voce vote.

#### Vote Recorded.

Senators Sulak and Moore asked to be recorded as voting "no" on the motion.

#### Point of Order.

Senator Moore raised the point of order that the committee report had not laid over for 24 hours.

The Chair overruled the point of order.

Senator Small asked unanimous consent that the rule requiring committee reports to lie over one day be suspended.

Senator Moore objected.

Senator Small moved that the rule requiring committee reports to lie over one day be suspended.

The motion prevailed by the following vote:

#### Yeas—25.

Beck.	Nelson.
Blackert.	Oneal.
Burns.	Pace.
Collie.	Poage.
Cotten.	Redditt.
Davis.	Sanderford.
DeBerry.	Shivers.
Hill.	Small.
Hopkins.	Stone.
Hornsby.	Van Zandt.
Isbell.	Westerfeld.
Martin.	Woodruff.
Neal.	

#### Nays—1.

Moore.

Present—Not Voting.

Sulak.

Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

The committee report recommending that the committee substitute for the bill be not printed, was adopted by unanimous consent.

#### Previous Question.

Senator Nelson moved that the Senate order the previous question on the pending substitute and the engrossment of the bill.

The motion was seconded.

The previous question was ordered by the following vote:

#### Yeas—15.

Blackert.	Neal.
Burns.	Nelson.
Cotten.	Oneal.
Davis.	Poage.
DeBerry.	Redditt.
Hill.	Van Zandt.
Hornsby.	Woodruff.
Isbell.	

#### Nays—12.

Beck.	Sanderford.
Collie.	Shivers.
Hopkins.	Small.
Martin.	Stone.
Moore.	Sulak.
Pace.	Westerfeld.

Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

The committee substitute was adopted by the following vote:

#### Yeas—22.

Beck.	Neal.
Blackert.	Nelson.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Redditt.
DeBerry.	Sanderford.
Hill.	Small.
Hornsby.	Van Zandt.
Isbell.	Westerfeld.
Martin.	Woodruff.

#### Nays—5.

Hopkins.	Stone.
Moore.	Sulak.
Shivers.	

Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

The bill was read second time as substituted and passed to third reading by the following vote:

#### Yeas—19.

Beck.	DeBerry.
Blackert.	Hill.
Burns.	Hornsby.
Collie.	Isbell.
Cotten.	Neal.
Davis.	Nelson.

Oneal.	Small.
Pace.	Van Zandt.
Poage.	Woodruff.
Redditt.	

Nays—8.

Hopkins.	Shivers.
Martin.	Stone.
Moore.	Sulak.
Sanderford.	Westerfeld.

Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

On motion of Senator Small the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 77 was put on its third reading and final passage by the following vote:

Yeas—23.

Beck.	Nelson.
Blackert.	Oneal.
Burns.	Pace.
Collie.	Poage.
Cotten.	Redditt.
Davis.	Sanderford.
DeBerry.	Shivers.
Hill.	Small.
Hornsby.	Van Zandt.
Isbell.	Westerfeld.
Martin.	Woodruff.
Neal.	

Nays—4.

Hopkins.	Stone.
Moore.	Sulak.

Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

Senator Moore sent up the following amendment:

Amend H. B. 77 by striking out all below the enacting clause and inserting in lieu the following:

Section 1. This Act may be cited as the "Texas Liquor Control Act."

Sec. 2. This Act shall be deemed an exercise of the police power of the State for the protection of the welfare, health, peace, morals, temperance and safety of the people of the State, and all its provisions shall be liberally construed for the accomplishment of that purpose.

Sec. 3. (a) The term "open saloon", as used in this Act, means any place where intoxicants what-

ever, manufactured in whole or in part by means of the process of distillation or any liquor compounded or composed in part of distilled spirits, other than wines containing not more than seventeen per cent (17%) alcohol by weight, and other than Type "C" liquor as hereinafter defined, are sold or offered for sale in broken or unsealed containers, for human consumption on the premises where sold or offered for sale, or where any alcoholic liquor or liquors are sold in violation of this Act. Type "C" liquor shall consist of any combination or dilution or of any combination and dilution of alcoholic liquor or liquors provided such combination or dilution, or combination and dilution, contains not more than nineteen per cent (19%) alcohol by weight.

Vendors permit to sell Type "B" and Type "C" liquor may be issued only to persons, firms, corporations or associations operating bona fide hotels, dining rooms, restaurants and dining and/or club cars where such places are equipped to serve and do regularly and customarily serve meals. The holder of a vendors permit may not sell in any area any liquor of a type or alcoholic content now or hereafter prohibited in such area.

No person shall be authorized to hold a vendor's permit whose gross sales of food shall not, in any calendar month, exceed his gross sales of liquor. It shall be the duty of the holders of vendors permits to make monthly reports under oath of such sales to the Commissioner in accordance with any rules or regulations he may prescribe and if, at any time his sales of liquor shall exceed his sales of food for a calendar month the Commissioner shall cancel such permit. Any person who shall wilfully and falsely misrepresent the facts concerning such sales shall be guilty of perjury and, upon conviction, shall be punished by confinement in the penitentiary for any term of years not less than one nor more than five.

(b) Any person, whether as principal or agent or employee, who shall operate or assist in operating or who shall be directly or indirectly interested in operating any open saloon in the State shall be deemed guilty of a misdemeanor and upon conviction shall be punished by fine

of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than one year. Any person who is twice convicted under the provisions of this section shall for the second and all subsequent offenses be punished by fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), and by confinement in the county jail for not less than thirty days nor more than one year.

(c) Whenever the word liquor is used in this Act it shall mean and refer to any liquor containing alcohol in excess of four (4%) per cent by weight unless otherwise indicated.

(d) Any person who violates any provision of this Act other than those contained in this Section shall be subject to the penalties prescribed by Section 45.

Sec. 5. It shall be unlawful for any person to manufacture, sell, possess for the purpose of sale, import into this State, or transport liquor in wet areas or dry areas without first having obtained a permit or without first having complied with all other terms and provisions of this Act; provided however that the prohibition contained in this Section against the transportation of liquor shall not apply to a person who has purchased such liquor for his own consumption and is transporting the same from a place where the sale thereof was lawful and to a place where its possession by him is lawful.

Sec. 6. It shall be unlawful for any person to manufacture, sell, possess, or transport in any dry area under this or any other act in this State any liquor containing alcohol in excess of one-half of one per centum by volume; provided however, it shall be lawful for the holders of carrier permits and private carrier permits to transport such liquor from one wet area to another wet area where, in the course of such transportation, it is necessary or convenient to cross such dry area; provided further that this Section shall not apply to the holders of industrial or medicinal permits; provided further, that this Section shall not apply to vinous or malt liquor that does not contain alcohol in ex-

cess of four (4%) per centum by weight in any area where its sale has been legalized.

Sec. 7. There is hereby created the Division of Liquor Control as a division in the office of the Tax Commissioner of the State of Texas. The Division shall be headed by the Tax Commissioner. The Commissioner, for the additional duties herein imposed, shall receive for his services compensation at the rate of Eighteen Hundred Dollars (\$1800.00) per annum, together with actual and necessary traveling expenses while engaged in the performance of his duties away from the seat of Government.

The Commissioner shall appoint an Administrator who shall serve at the Commissioner's pleasure and who shall have power and authority when so authorized by the Commissioner to discharge the duties and exercise the powers of the Commissioner. The Administrator shall receive a salary not exceeding Five Thousand Dollars (\$5,000.00) per annum.

The Commissioner shall appoint all necessary officers, attorneys, clerks, stenographers, inspectors, auditors, chemists, experts, and employees to properly enforce the provisions of this Act, all of whom shall serve at his pleasure. No person shall be eligible for any appointment who has any connection whatever with any person engaged in or conducting any liquor business of any kind, or who holds stock or bonds therein, or who has any pecuniary interest therein, nor shall any such person receive any commission or profit whatever from, or have any interest whatsoever in the purchases or sales made by persons authorized by this Act to manufacture, purchase, sell or otherwise deal in the liquor business.

The Administrator shall act as manager, secretary and custodian of all records unless the Commissioner shall otherwise order, and shall perform such other duties as the Commissioner may prescribe.

The Administrator shall devote his entire time to said office and shall give a surety bond for the faithful performance of his duties in such form as the Commissioner may prescribe and in an amount of not less than Ten Thousand Dollars (\$10,000.00). The Commissioner

shall fix the duties, salaries and wages of all employees authorized by this Act but such compensation, salaries and wages shall not be greater than the salaries fixed for similar positions and duties in other departments of the State Government. The salaries herein authorized shall not continue in effect beyond the effective date of the general appropriation bill of the Forty-fifth Legislature. The Commissioner shall likewise have power to require any employee to give bond for the faithful performance of his duties in such an amount as he may deem adequate.

It shall be the duty of the Commissioner, during the month of January of each year, to make a report to the Governor concerning his administration of this Act, and including a statement of the revenues derived herefrom, together with a detailed statement of the expenses incurred by the Division, and further, a list of recommendations designed to strengthen the enforcement hereof.

The Commissioner is authorized and directed to prescribe such rules and regulations as may be necessary to carry out his powers and duties, and to amend or repeal the same.

The soliciting and procuring of an endorsement of any member of the Legislature for appointment to any position under this Act shall disqualify the person receiving such endorsement from holding the position.

Sec. 8. Among others, the functions, powers, and duties of the Commissioner shall include the following:

(a) To control the manufacture, possession, sale, purchase, transportation, importation and delivery of liquor in accordance with the provisions of this Act, and make all necessary rules and regulations to fully and effectually accomplish such purpose.

(b) To grant, refuse, suspend, or cancel permits for the purchase, transportation, importation, sale or manufacture of liquor or other permits in regard thereto.

(c) The taxes and license fees imposed by this Act shall be paid to or collected by the Commissioner.

(d) To investigate and aid in the prosecution of violations of this Act and other acts relating to liquor, to make seizure of liquor manufactured, sold, kept, imported or transported in contravention hereof, and apply for

the confiscation thereof whenever required by this Act, and cooperate in the prosecution of offenders before any court of competent jurisdiction.

(e) To exercise all other powers, duties and functions conferred by this Act, and all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of this Act.

(f) To require that any liquor sold in this State shall conform in all respects to the advertised quality and quantity of such products.

(g) To license, regulate and control the use of alcohol and liquor for scientific, pharmaceutical and industrial purposes, and to provide by regulation for the withdrawal thereof from warehouses and denaturing plants and to prescribe for the manner in which the same may be used for scientific research for hospitals and sanatoriums, in industrial plants, and for other manufacturing purposes tax free.

Sec. 9. All rules and regulations of the Commissioner shall be promulgated by publication in at least five (5) newspapers (such newspapers being published in representative area of the State) published in the State for three (3) consecutive days; and by posting the same for five (5) successive days in a prominent place at his office and by mailing a copy of the said rules and regulations to the County Clerk of each county in the State where the sale of liquor is authorized, for record. Such rules and regulations shall become operative when the certificate of the Administrator as to such publication, posting and mailing have been filed in the office of the Commissioner and the filing of such certificate shall be prima facie evidence that this Section has been complied with.

Sec. 10. The Commissioner, the Administrator and any special examiner or inspector under the direction of the Commissioner, shall, for the purposes contemplated by this Act, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without the State of Texas, as now provided by law, and compel the production of pertinent books, accounts, records, documents and testimony.

If a witness in attendance before the Commissioner or one of his authorized representatives refuses,

without reasonable cause to be examined or to answer a legal and pertinent question, or to produce a book, record or paper when ordered to do so by the Commissioner, the Commissioner may apply to the Judge of the District Court of any county where such witness is in attendance, upon proof by affidavit of the fact, for a rule of order returnable in not less than two (2) nor more than five (5) days, directing such witness to show cause before the Judge who made the order, or any other District Judge of said county, why he should not be punished for contempt; upon the return of such order the Judge before whom the matter shall come on for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the Judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record or paper which he was ordered to bring or produce, he may forthwith punish the offender as for contempt of Court.

Subpoenas shall be served and witness fees and mileage paid as in civil cases in the District Court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Commissioner shall be paid their fees and mileage out of funds herein provided.

Sec. 11. No person shall import into this State any liquor from any source unless a permit be first obtained from the Commissioner and any person so purchasing or importing liquor in violation of this Section shall be subject to the penalties hereinafter provided. In addition to the penalties hereafter provided, any person violating the provisions of this Section shall forfeit the liquor so imported to the Commissioner as herein provided.

Sec. 12. It shall not be necessary in any information, complaint or indictment to negative any exception contained in this Act concerning any prohibited Act; provided however, that any such exception made herein may be urged as a defense by any person charged by such complaint, information or indictment.

Sec. 13. Every applicant for a brewer's, distiller's, rectifier's, wholesaler's beer and wine wholesaler's, or package store permit under this

Act shall give notice of such application by publication for once a week for two consecutive weeks in a newspaper of general circulation and regularly published in the city or town in the county in which applicant's place of business is located, or if such applicant's place of business is not located in a city or town wherein there is a qualified newspaper, then such notice may appear in any newspaper in the county. In any county in which no qualified newspaper is published, the notice shall be published in a qualified newspaper published in the closest neighboring county. Such publication shall constitute a notice to all parties desiring to protest the granting of such permit upon any of the grounds upon which the Commissioner may refuse to grant an application for a permit. Such notice shall set forth the grounds of objection contained in subdivision (b) to (i) inclusive of Section 14 of this Act. The Commissioner may require of every applicant for a permit the recommendation in writing of the County Judge of the county of his residence and he shall take recommendation into consideration before granting or refusing such license. The Commissioner shall have authority to issue temporary permits for periods not exceeding ninety (90) days immediately following the passage of this Act, but not thereafter.

Sec. 14. The Commissioner shall refuse to issue a permit to any applicant if he has reasonable grounds to believe any of the following to be true:

(a) That applicant has not furnished an acceptable bond.

(b) That the applicant lacks sufficient funds to maintain as establishment properly.

(c) That an applicant to sell at retail has been provided with funds by or has any connection with a manufacturer of, or wholesale dealer in liquor.

(d) That the applicant is in the habit of using alcoholic beverages to excess or habit-forming drugs.

(e) That the applicant had made false statements to the Commissioner concerning any fact material to the granting or refusal of his application.

(f) That the applicant is not a citizen of the United States or of this State, or is incompetent or physically unable to carry on the management

of the establishment proposed to be licensed.

(g) That the applicant has been convicted of violating any of the liquor laws of this State, general or local, including the provisions of this Act, or of any rule or regulation promulgated in pursuance hereof, or has been convicted at any time of a felony.

(h) That the applicant has maintained a noisy, lewd, disorderly or unsanitary establishment.

(i) That applicant has ever been engaged in the business of importing, manufacturing, transporting or selling liquor in violation of the laws of Texas.

(j) That there is any other reason which, in the opinion of the Commissioner, based on general welfare, health, peace, morals and safety of the people, warrants his refusal to grant such permit.

Sec. 15. The Commissioner shall cancel or suspend after notice and hearing any such permit granted if he finds or has reasonable ground to believe any of the following to be true:

(a) That the permittee has violated any provision of this act or acts amendatory thereof or any rule or regulation of the Commissioner adopted pursuant thereto.

(b) That the permittee had made any false representations or statements to the Commissioner in order to induce or prevent action by the Commissioner.

(c) That the permittee is not maintaining an acceptable bond.

(d) That any retail permittee is acting as an agent of a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or property or accepted gratuities therefrom, or has any connection therewith.

(e) That the permittee maintains a noisy, lewd, disorderly or unsanitary establishment or has been supplying impure or otherwise deleterious beverages.

(f) That the permittee is insolvent or incompetent or physically unable to carry on the management of this establishment.

(g) That the permittee is in the habit of using liquor to excess or habit-forming drugs.

(h) That the permittee knowingly has sold liquor to persons under twenty-one years of age, to persons known to be drunkards, or to per-

sons visibly intoxicated at the time of sale.

(i) That the permittee has misrepresented to a customer or the public any liquor sold by him.

(j) That permittee, since the granting of his permit, has been convicted of felony, or had been guilty of violating any of the liquor laws of this State, general or local, including provisions of this Act, or any rule or regulation promulgated in pursuance of this Act.

(k) That there is any other reason which, in the opinion of the Commissioner, based on the general welfare, health, peace, morals and safety of the people of this State, warrants cancelling or suspending such permit.

The governing authorities of any city or town or the Commissioners Court of any county shall have power to institute proceedings for the revocation or suspension of any permit granted hereunder. Such proceedings may be instituted by the filing of a complaint with the Commissioner, and it shall be the duty of the Commissioner to forthwith hear the same in accordance with the terms of this Act.

Notice of cancellation or suspension, stating the reason therefor, shall be served upon the permittee, or upon whatever person may be in charge temporarily, or otherwise, of the licensed premises, or shall be affixed to the outside of the door of the licensed premises, or shall be sent by the United States registered mail addressed to the permittee at the licensed premises, and said cancellation notice shall be published by the Commissioner once a week for three consecutive weeks in the county in which the licensed premises are located, or if no newspaper is published in said county, in a newspaper in a neighboring county. Cancellation or suspension shall take effect upon the affixing, service, delivery, or first publication of such notice. Such affixing, service or delivery or publication of a cancellation or suspension shall be adequate notice to all parties concerned. The publication or posting of such notices shall be privileged.

In the event of resort to any court from an order of cancellation or suspension in whatever form the proceedings may be brought, it shall in no wise act as a supersedeas of the order of cancellation or suspension.

The permit so cancelled or suspended shall so stand pending the termination of the proceedings. No refund of permit fees shall for any reason be made by the Commissioner.

All notices, orders, records and publications authorized or required by the terms of this Act shall be privileged. It is further provided that the certificate of the Commissioner or the Administrator concerning any rule or regulation or other order promulgated under the terms hereof shall be prima facie evidence of the validity thereof, and the same shall be admissible as evidence in all courts in this State.

Sec. 16. Any permit granted under this Act shall be a purely personal privilege, good for the year in which issued, and ending August 31st of each year at 12 o'clock midnight, and revokable for the causes herein stated, subject to appeal as herein-after provided, and shall not constitute property, nor shall it be subject to attachment or execution, nor shall it descend by the laws of testate or intestate devolution, but shall cease upon the death of the licensee; provided, that the Commissioner may, by regulation, provide for the time and manner in which the successor in interest of any deceased, insolvent or bankrupt licensee may dispose of any liquors left on hand by the licensee. This section shall not apply to beer licenses mentioned in Sec. ... of this Act.

Sec. 17. And in the event of any person being aggrieved by any decision, rule or order of the Commissioner, such person shall have the right of an appeal therefrom to the District Court of the county in which a decision, rule or order in such case would become effective, said suit to be against the Commissioner alone as defendant, and such suit shall be tried de novo, and be governed by the same rules as other suits in said court, and during the pendency of such suit the order of the Commissioner may be suspended by interlocutory order of the court pending a hearing on the merits. Such cause shall be tried before the Judge of such court within ten (10) days after the docketing of the cause, or at the earliest possible time after such ten (10) day period, in the event the Judge is not able to try such cause within such ten day period.

Sec. 18. Permits shall be of the following classes: Brewers, distillers, winery, rectifiers, wholesalers, beer wholesalers, wine wholesalers, package stores, vendors, agents, industrial, medical, carriers, private carriers, cartage and storage.

(a) Brewer's Permit. A brewer's permit shall authorize the manufacture and sale of malt beverages containing alcohol in excess of four per centum (4%) by weight. The annual license fee shall be Two Thousand Dollars (\$2,000). It shall be unlawful for any person holding a brewer's permit to sell malt beverages to any person who is not the holder of a permit authorizing him to purchase such malt beverages under this Act except when such malt beverages are sold and delivered to persons in other States.

(b) Distiller's Permit. A distiller's permit shall authorize the manufacture of spirituous beverages containing alcohol in excess of four per centum (4%) by weight and the rectification of the same. Such permit shall also authorize the importation into this State of alcoholic spirits including ethyl alcohol for use in or as ingredients in the manufacture of alcoholic spirituous beverages, but for no other purpose, and in no event for resale in this State. It shall be unlawful for any person holding a distiller's permit to sell such spirituous liquors to any other than the holder of a wholesaler's permit under this Act unless the same be sold and delivered to a person outside this State. The annual license fee for distillers shall be Two Thousand Five Hundred Dollars (\$2,500.00).

(c) Winery Permits. A winery permit shall authorize the holder thereof to manufacture, bottle, package and label wine; said permit shall also authorize the holder thereof to manufacture grape brandy to be used exclusively for fortifying purposes by its holder on the premises for which issued. The term "wine" wherever used in this Act shall mean the product obtained by the fermentation of grapes, fruits, and berries containing natural sugar or any such product fortified with grape brandy and containing not more than nineteen per cent (19%) of alcohol by volume. It shall be lawful for any person holding a winery permit to sell wine direct to any other per-



mittees and to the ultimate consumer in unbroken packages. The annual license fee for such winery shall be Fifty Dollars (\$50.00).

A class "B" winery permit shall authorize the holder thereof to manufacture, bottle, package and label wine where the grapes, fruits and berries used in the manufacture of said wine have been produced solely within the county where such wine is manufactured. The annual license fee for such class "B" winery shall be Ten Dollars (\$10.00).

Nothing in this Act shall be construed to prevent or prohibit the manufacture without a permit or fee of wines by the fermentation of grapes, fruits and berries by an individual for his own consumption and where the same is not to be sold or offered for sale.

(d) Rectifier's Permit. For the purpose of this Act "rectifier" means and includes any person who rectifies, purifies, or refines distilled spirits or wines other than vermouth by any process other than as provided for on distillery premises or who mixes such spirits, wine, or other liquors, for sale under the name of whiskey, brandy, gin, rum, spirits, cordials, bitters, or any other name. A rectifier's permit shall authorize the rectification and sale of alcoholic spirituous liquors to the holders of wholesale permits only, unless such liquors are sold and delivered to persons outside the State. Such permit shall also authorize rectifiers to import into this State alcoholic spirits for exclusive use as ingredients in the preparation of alcoholic liquors, but shall not authorize the importation of any such spirits for resale without rectification. The annual license fee shall be Two Thousand Five Hundred Dollars (\$2,500.00).

(e) Wholesaler's Permit. A wholesaler's permit shall authorize the holder to purchase liquor from persons authorized by law to manufacture and sell the same in this State and to import such liquor from points outside the State and to sell the same to the holders of permits in this State at wholesale. Such permit shall also authorize the holder thereof to sell and deliver such liquor to persons outside this State. It shall be unlawful for the holder of such a permit to sell such liquor in this State to any other person than

the holder of a permit lawfully entitling him to purchase and receive the same from such wholesaler. Except as is specifically authorized for rectifiers, beer and wine wholesalers and distillers, it shall be unlawful for any other person than the holder of a wholesaler's permit to import liquor into this State. Wholesale druggists possessing the necessary qualifications, as well as other qualified persons, shall be entitled to a wholesaler's permit.

A wholesale druggist is defined to mean every person engaged in the business of selling at wholesale a representative assortment of pharmaceuticals and other materials such as drugs, oils, chemicals, proprietary medicines, and druggist sundries, and who carries a representative stock of such items in such assortments and quantities as will enable him to regularly supply from stock from day to day the usual and immediate medical requirements of retail druggists, pharmacists, physicians, hospitals and dispensaries, and whose gross sales of such items shall at all times exceed his gross sales of liquor for medicinal or other purposes. No wholesale druggist shall be qualified to receive a wholesaler's permit whose business does not meet these requirements. The annual license fee shall be Two Thousand Five Hundred Dollars (\$2,500.00).

(f) Beer Wholesaler's Permit. A beer wholesaler's permit shall authorize the holder thereof to purchase malt liquors containing alcohol in excess of four per centum (4%) by weight from brewers holding permits in this State and to import such liquors from other States and to sell the same at wholesale only to the holders of permits in this State who are authorized to purchase and receive the same; such permit shall also authorize the holder thereof to sell and deliver such liquor to persons outside this State; provided that such permit may authorize the sale to consumers in wet areas where such sale is legal. The annual fee shall be One Hundred and Twenty-five Dollars (\$125.00).

(f-1) Wine Wholesaler's Permit. A wine wholesaler's permit shall authorize the holder thereof to purchase vinous liquors containing alcohol not in excess of nineteen per centum (19%) by weight from wine-

ries or wine manufactures holding permits in this State and to import such liquors from other States and to sell the same at wholesale only to the holders of permits in this State who are authorized to purchase and receive the same; provided that such permit shall also authorize the holder thereof to bottle, package and label wines purchased from wineries or wine manufacturers either within or without this State; such permit shall also authorize the holder thereof to sell and deliver such liquor to persons outside this State; provided that such permit may authorize the sale to consumers in wet areas where such sale is legal. The annual fee shall be One Hundred Twenty-five Dollars (\$125.00).

(g) Package Store Permit. A package store permit shall authorize the holder thereof to purchase the liquor specified in the permit from the holders of wholesaler's permits. It shall be unlawful for the holder of a package store permit to purchase liquor from any other persons than the holders of wholesaler's permits. Such permit shall authorize the holder to sell such liquor as shall be legalized in the area were situated at retail to consumers in unbroken packages only and not for consumption on the premises where sold; provided that a hotel as herein defined which has secured a package store permit may deliver liquor at retail in unbroken packages to the rooms of bona fide guests of such hotels for consumption in such rooms. Provided that in the case of wines it shall be lawful for the holder of a package store permit to sell the same not for consumption on, at or near the premises where sold in quantities of fifty-two (52) gallons, or less, per sale, and for that purpose may break or open any package, receptacle or container and transfer said wine to another receptacle, package or container of the same or different size. Provided further, that the vendor in all such cases shall affix to the receiving receptacle, package or container a stamp to be issued by the Commissioner stating that the contents had been withdrawn from a tax-paid container. It shall be unlawful for the holder of a package store permit to break or open any package or container containing liquor on, at or near his premises or to sell, barter,

exchange, deliver or give away to any person any drink or drinks of liquor on, at or near his premises from a package or container that has for any reason been opened or broken or to sell liquor in packages containing less than one-half pint.

Package stores shall not have curtains, hangings, signs or any obstruction which will prevent a clear view at all times of the interior of the store; providing the preceding clause shall not apply to a drug store operating under a medicinal permit only. It shall be unlawful for any package store to employ any person under 21 years of age to sell or dispense liquors.

Hotels and drug stores as hereinafter defined, as well as other qualified persons, may obtain package store permits. The annual license fee for a package store permit shall be:

In cities and towns having a population of two thousand (2,000) inhabitants or less, according to the last preceding Federal Census, the fee shall be One Hundred and Fifty Dollars (\$150.00); in cities and towns having a population of more than two thousand (2,000) and less than five thousand (5,000) inhabitants, according to the last preceding Federal Census, the fee shall be Two Hundred and Fifty Dollars (\$250.00); in cities and towns having a population of more than five thousand (5,000) and less than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, the fee shall be Three Hundred and Fifty Dollars (\$350.00); in cities and towns having a population of more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, the fee shall be Five Hundred Dollars (\$500.00). The fee for a package store permit outside the limits of an incorporated city or town shall be One Hundred and Fifty Dollars (\$150.00.) Provided that the annual license fee for package store permit to sell beer and wine only shall be: In cities and towns having a population of two thousand (2,000) inhabitants or less, according to the last preceding Federal Census, the fee shall be Ten Dollars (\$10.00); in cities and towns having a population of more than two thousand (2,000) and less than five thousand (5,000) inhabi-

tants, according to the last preceding Federal Census, the fee shall be Fifteen Dollars (\$15.00); in cities and towns having a population of more than five thousand (5,000) and less than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, the fee shall be Twenty Dollars (\$20.00); in cities and towns having a population of more than ten thousand (10,000) inhabitants, according to the last Federal Census, the fee shall be Twenty-five Dollars (\$25.00). The fee for a packages store permit outside the limits of an incorporated city or town shall be Ten Dollars (\$10.00).

"Drug store" means and includes every person engaged in the business of selling at retail a representative assortment of pharmaceuticals and other articles and materials such as drugs, oils, chemicals, proprietary medicines and druggist sundries, and who carries regularly a stock of such items sufficient in quantity and assortment as will enable him to supply the daily needs of consumers, and who regularly employs one or more registered pharmacists at all times in compliance with the Pharmacy Laws of this State, and whose gross sales of such items shall at all times exceed the gross sales of liquor for medicinal or other purposes. No drug store shall be granted a permit until a permit to operate a pharmacy has been obtained from the State Board of Pharmacy.

(h) Agent's Permit.—No person shall act as agent or salesman for the sale of, or for taking or soliciting orders for the sale of any liquor irrespective of whether such sale is to be made within or without the State unless such person shall have an agent's permit. In applying for such permit such agent shall set forth the name and address of each and every person whom he represents, and shall furnish such other information as may be required by the Commissioner. It shall be unlawful for any agent to represent any person whose name does not appear upon said permit as his employer or to act as agent or salesman for any other person not named therein. The annual license fee for such permit shall be Five Dollars (\$5.00).

(i) Industrial Permit.—No provision of this Act shall apply to al-

cohol intended to be used for industrial, mechanical and scientific purposes. Industrial permits may be issued to persons desiring to import, transport and use alcohol for use in the manufacture and sale of any of the following, tax free:

- (1) Denatured alcohol;
- (2) Patent, proprietary, medicinal, pharmaceutical, antiseptic and toilet preparations;
- (3) Flavoring extracts, syrups, and food products;
- (4) Scientific, chemical, mechanical, industrial and medicinal products and purposes.

It shall be unlawful for any person to knowingly sell any of the products enumerated in paragraphs (1), (2), (3), and (4), for beverage purposes or who shall sell any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purpose.

It shall be unlawful for any person to purchase, transport, or use alcohol for any purpose enumerated in this Section unless and until he shall have secured an industrial permit; provided, however, that nothing contained in this section shall restrict the purchase, sale or possession without any permit thereof of denatured alcohol by any person after the same has been so produced and so long as it shall retain its character as denatured alcohol. The annual license fee for an industrial permit shall be Ten Dollars (\$10.00).

(j) Carrier's Permit.—The word "carrier" when used in this section shall mean and include steam and electric railway carriers and motor carriers operating under the supervision of the Railroad Commission of Texas whose rates and practices are prescribed by orders promulgated by said Commission. The holder of a carrier's permit shall be authorized to transport liquor into this State and between points within this State. It shall be unlawful for any person to transport liquor into this State or between points within this State unless and until he shall have procured a carrier's permit. In the case of motor carriers as above defined, liquor shall not be transported in this State by the holder of a permit unless a description of the vehicle in which such transportation is carried on shall be furnished, in-

cluding the engine number, highway license and such other information as may be required. The transportation or importation of liquor by the holder of a permit in any vehicle not so described shall be unlawful and shall constitute grounds for cancellation of said permit. In the event such carrier's permit shall be cancelled for a violation of this provision or for violation of any rule or regulation promulgated in pursuance hereof, such cancellation shall operate as a bar both as against all of the vehicles owned and operated by such carrier as well as against the holder of such permit for a period of two years. Any steam or electric railway transporting liquor into this State or between points in this State who shall violate any provision of this Act, or who shall violate any rule or regulation prescribed in pursuance of this act shall have its permit cancelled and in the event of such cancellation shall be prohibited from transporting liquor into this State or between points in this State for a period of two (2) years. The holders of carrier's permits shall furnish such information concerning the transportation of liquor into this State or between points in this State as shall be required of them. It shall be unlawful for any such carrier to transport and deliver liquor to any person in this State unless the same be for a lawful purpose.

The restrictions contained in this section shall apply to carriers when in the course of an interstate or foreign shipment of liquor it is necessary for them to cross this state in the course of such transportation.

The annual license fee for a carrier's permit shall be Five Dollars (\$5.00).

(k) Private Carrier's Permit.—Brewers, distillers, wineries, rectifiers, wholesalers, beer and wine wholesalers, and manufacturers, shall be entitled to transport liquor from place to place in this State in motor vehicles that are owned by them when such transportation is for a lawful purpose. Motor vehicles used for such transportation shall be fully described in the application for a private carrier permit and such application shall contain all information which shall be required. Motor vehicles used by permittees

for the transportation of liquor within this State shall have printed or painted on both sides of said vehicles the trade or business name of the holder of the permit and also the number of the private carrier permit. It shall be unlawful for any permittee above named to transport liquors in any vehicle not fully described in the application for the permit. Any permittee violating any rule or regulation promulgated in pursuance of this section shall have his private carrier permit cancelled and shall not be permitted to transport any liquor in any vehicles owned by him for a period of two (2) years. It shall further be unlawful for any permittee to transport liquor without first having obtained a private carrier permit. The annual license fee for such permit shall be Five Dollars (\$5.00).

(l) Local Cartage Permit.—The Board is hereby authorized to issue local cartage permits to warehouse or transfer companies desiring to transport liquor within any city or town and its environs within this State. It shall be unlawful for any person to transport liquor for hire within any city or town or its environs unless and until he shall have secured such permit. In case of local cartage, liquors shall not be transported by the holder of such local cartage permit unless and until a description of the vehicle or vehicles used in such transportation shall be furnished, including the engine number, date of manufacture, highway license number and such other information as may be required by the Commissioner; and each such vehicle shall be plainly marked or lettered in such manner as to plainly indicate that such vehicle is being used for the transportation of liquors by the holder of a Local Cartage Permit. The transportation of liquor by the holder of a permit in any vehicle not so described and marked shall be unlawful and shall constitute grounds for the cancellation of such permit. In the event such Local Cartage Permit is cancelled for a violation of this provision or for violation of any rule or regulation promulgated in pursuance of this section, such cancellation shall operate as a bar, both as against all of the vehicles owned and operated by such local cartage permittee, as well as against the

holder of such permit for a period of two (2) years. It shall be unlawful for the holder of a Local Cartage Permit to transport liquor between incorporated towns or cities in this State unless and until he shall have fully complied with the requirements governing the issuance of "Carrier" permits. The annual license fee for Local Cartage Permits shall be Five Dollars (\$5.00).

(m) Storage Permit.—The holders of brewery, distillery, winery, rectifier, wholesaler and beer and wine wholesaler permits shall be authorized to secure Storage Permits for one or more private warehouses for storage purposes at their place of business for liquors owned by them without being required to pay any additional permit fees. Such permittees shall also be authorized to store liquors owned by them in public bonded warehouses that have secured storage permits as hereinafter provided. Each separate warehouse, public or private, used by any permittee for storage purposes shall be separately licensed. No permit shall be granted for the storage of liquor in any dry area except for medical or other lawful purposes. When liquors are stored by permittee at any warehouse, public or private, it shall be his duty to report the quantity and character of liquor so stored to the Commissioner. Warehouses, both public and private, shall report to the Commissioner within twenty-four (24) hours any and all withdrawals of liquor from storage, giving the quantity and character of liquor so withdrawn, by whom withdrawn, where and how shipped, together with a statement of the quantity and character of liquor remaining in storage to the credit of the account from which withdrawal was made, it being the intent of this section to provide the Commissioner with a perpetual inventory of liquor stocks in storage at all times. Permittees desiring to store liquors in public or private warehouses shall furnish all information which shall be required and observe all regulations which may be promulgated in pursuance of this section. The annual license fee to be paid by permittees for storage in public warehouses shall be Fifty Dollars (\$50.00) and no liquor shall be stored in other than warehouses which have secured a permit as hereinafter required.

All warehouses, both public and private, desiring to receive and store liquor for permittees shall apply for a permit and shall furnish such information concerning liquor stored and withdrawn from such storage as may be required under any rule or regulation adopted in pursuance of this section. Such warehousemen shall give a surety bond in such amount as may be required of them. The annual license fee for public warehousemen receiving and storing liquor shall be Fifty Dollars (\$50.00) and no permit shall be issued to a public warehouse other than a bona fide bonded warehouse that derives at least fifty per cent (50%) of its gross revenue from the storage and handling household goods or merchandise other than liquors. Annual permits for private warehouses may be issued to holders of brewery, distillery, winery, rectifier, wholesaler or beer and wine wholesaler permits for the storage of their own liquors on their own premises without additional fees.

(n) Medical Permit.—Retain druggists, hospitals, sanitariums and other like businesses and institutions shall be entitled to receive a permit to purchase and sell to qualified persons liquors for medicinal purposes. Medicinal permits shall allow the holders thereof to purchase liquor for medicinal purposes only from persons holding wholesaler's permits under Subsection (e) of this section; it shall be unlawful for the holder of a medicinal permit to purchase liquor from any other persons than the holders of such wholesaler's permits. This section shall apply to wet and dry areas. Such businesses and institutions shall secure permits before handling liquor and no such permit shall be issued for any other than strictly medicinal purposes. Provided that the drug store applying for permit shall have been in operation for a period of two (2) years prior to applying for such permit. Provided nothing contained herein shall prohibit or interfere with bona fide drug stores or pharmacies obtaining a supply of alcohol for the manufacture of medicinal preparations unfit for beverage use, or the compounding of prescriptions in the practice of pharmacy. Nor shall anything contained herein prevent or prohibit bona fide or chartered schools, colleges or universities

from obtaining alcohol for scientific or laboratory use. Such businesses and institutions shall keep such records of sales and purchases as may be required by regulations issued in pursuance of this section.

No such liquors shall be dispensed, sold, or delivered to any person in this State except upon the prescription of a physician licensed to practice medicine in the State of Texas. Nothing in this Act shall prevent a physician licensed to practice medicine in Texas, from prescribing any of the distilled, fermented or vinous liquors mentioned in this Act to his patients in the legitimate practice of medicine, provided that such prescription be dated as of the day on which signed, and shall state name, address of patient, disease for which prescribed, quantity prescribed, signed by physician, showing date and address of patient, and shall not be refilled. Said prescription when filled, shall be kept on file by pharmacist filling same for two years. Such prescription so filled shall be subject to inspection and if any druggist or pharmacist shall sell any liquor without a physician's prescription therefor or for any other purpose than medicinal purposes his permit shall be cancelled and he shall be denied the right to handle liquor for medicinal or any other purposes for a period of two (2) years. Provided further, that all physicians in this State before writing a prescription for any of the above mentioned liquors, shall make application to the Comptroller on blanks prescribed by the Comptroller for a permit to write said prescriptions, and pay the Comptroller the sum of One (\$1.00) Dollar registration fee. The annual license fee for druggists or pharmacists permits in dry areas shall be One Hundred Fifty (\$150.00) Dollars; in wet areas the annual license fee for druggists or pharmacists shall be the same as the annual license fees for package stores in such areas.

(o) All license fees levied by this Act shall be paid in advance for one years unless such fee be collected for only a portion of the licensing year. In such event the fee required shall cover the period of time from the date of the license to midnight of August 31st succeeding, and only the proportionate part of the fee levied for such license shall be collected. The fractional part of any month re-

maining shall be counted as one month in calculating the fee that shall be due.

(p) All permit fees fixed by this Act, except agent's industrial, medicinal, carrier's, private carrier's, local cartage and storage, shall be collected one-half by the State, one-fourth by incorporated cities or towns, and one-fourth by the counties wherein the places of business of said permittees are located. It is intended hereby that the license fees prescribed herein shall be the total fees levied and collected against any permittee and in no event shall a city or town or the Commissioners Court of any county levy and collect more than one-fourth of the fees herein prescribed for permittees.

(q) Vendors Permits:—The holders of vendors permits which are to be issued by the Commissioner are prohibited from purchasing liquor from others than the holders of wholesalers and beer and wine wholesalers permits. It shall be unlawful for the holder of a wholesaler's or a beer and wine wholesaler's permit to sell any type of liquor or any liquor having an alcoholic content that is illegal in the area where the purchaser's premises are located.

It is further especially provided that no vendors permit shall be issued in any area authorizing the sale of liquor by the drink of any type or of any alcoholic content that is illegal in such area.

Annual fees for vendors permits shall be as follows:

In cities having a population not exceeding 50,000 according to the last Federal Census, \$50.00; in cities having a population not exceeding 100,000, \$100.00; in cities having a population not exceeding 150,000, \$200.00; in cities not exceeding a population of 200,000, \$300.00; in cities having a population exceeding 200,000, \$500.00; outside the corporate limits of any city or town, \$50.00.

The annual fee for vendors permits issued to the owners, operators, lessors, or lessees of railway dining and/or club cars shall be \$5.00 and a separate fee shall be charged for each car.

Annual fees for vendors permits for the sale of beer and wine only, shall be as follows:

In cities having a population not exceeding 50,000, according to the

last Federal Census, \$25.00; in cities having a population not exceeding 100,000, \$30.00; in cities having a population not exceeding 150,000, \$35.00; in cities not exceeding a population of 200,000, \$40.00; in cities having a population exceeding 200,000, \$50.00; outside the corporate limits of any city or town, \$25.00.

In no event shall any drink of liquor be served by the holder of a vendor's permit that contains alcohol in excess of 19 % by weight.

(r) No person shall be entitled to hold a package store permit when he has been issued a permit authorizing sale in broken packages and no person holding a broken package sale permit shall be issued a permit authorizing sale by unbroken packages only; provided, this restriction shall not apply to hotels where they shall have complied with regulations of the Commissioner regulating the proper segregation of the operation of a package store from operation under a permit authorizing the sale of liquor from broken packages.

Sec. 19. All bonds required by this Act shall be executed by a surety company duly authorized and qualified to do business in this State. No surety may cancel or annul any surety bond required except with the consent of the Commissioner. The Commissioner shall not cancel any surety bond until said surety company shall have paid and discharged in full all of its liability upon said bond to the State to the date of said cancellation. The holders of all permits shall be required to make bonds in sums of not less than \$1,000.00 and not exceeding \$25,000.00. The Commissioner, in his discretion, may fix the amount of bond which shall be required for each class of permittees. All bonds required of permittees shall be payable to the State of Texas conditioned that so long as the applicant holds such permit unrevoked he will not violate any of the provisions of any of the laws of this State relating to the traffic in, transportation, sale or delivery of liquor or any of the rules or regulations of the Commissioner, and that he will pay all fines, penalties, forfeitures and costs accruing against him, and in the case of such permittees as are required to account for taxes and fees that such permittees will account for

and pay all license fees and taxes levied by this Act.

Sec. 20. No person holding a permit under this act that authorizes the retail sale of liquor, and no officer, employee, or agents thereof, shall acquire or hold or own or possess either in his own name or in the name of any other person, by means of the ownership of corporate stock in a corporation, holding any wholesaler's, brewer's, distiller's, winery, rectifier's of beer and wine wholesaler's permit, or by means of any participating interest, or other interest, or by means of any title or devise or trusteeship or otherwise, any financial interest in or to any of said last named permits or in and to the business thereof, or in and to any company or corporation holding any such permits; nor shall the holders of permits to distill, rectify or manufacture liquor or engage in the business of selling such liquor at wholesale own any such interest in the business or premises of the holder of a permit authorizing the retail sale of liquor. The permit of any person holding a permit authorizing him to sell liquor at retail who shall have any such interest in the business of any such permittees, or who shall knowingly permit any of his officers, employees or agent to so hold the same, shall be subject to cancellation by the Commissioner.

Sec. 21. No person who has not been a citizen of Texas for a period of three years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this act. No permit shall be issued to a corporation unless the same be incorporated under the laws of the State and unless at least fifty-one per cent (51%) of the stock of the corporation is owned at all times by citizens who have resided within the State for a period of three years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to corporations, either domestic or foreign, holding a permit to do business in this State prior to August 24, 1935. Partnerships, firms and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation holding a permit under

this act who shall violate any provision hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file a suit for such cancellation in a district court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, boat, industrial, medicinal and carrier's permits.

Sec. 22. If any permittee shall be convicted for the violation of any provision of this Act, or of any rule or regulation of the Commissioner, and no appeal is pending, his surety shall be liable for any fines or penalties imposed by reason of the conviction, in addition to any taxes or fees levied under this Act which may be due the State at the time the license is revoked, and the Commissioner may, in his own name, institute action upon such bond for the benefit of the State. Upon proof of such conviction the Court before whom such suit is brought shall render judgment in favor of the Commissioner for the total sum of any fines or penalties imposed and any taxes or fees due.

Nothing in this Act shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by any prior recovery or recoveries as the case may be.

The surety may terminate its liability under such bond by giving thirty days' written notice thereof, served either personally or by registered mail, to the principal and to the Commissioner; and upon giving such notice the surety shall be discharged from all liability under such bond for any act or omission of the principal occurring after the expiration of thirty days from the date of service of such notice. Unless on or before the expiration of such period the principal shall duly file a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the permit of the principal shall likewise terminate upon the expiration of such period.

Sec. 23. All person having any liquor on hand in this State, shall, within thirty (30) days from the effective date of this Act, make a true

inventory and report of such liquor to the Commissioner and shall pay the taxes herein levied and assessed. Failure to report and pay the taxes on any such liquor shall render the same subject to confiscation by the Commissioner as is herein provided, and shall operate as a bar to such person receiving any character of permit under this Act.

Sec. 24. There is hereby levied and imposed in addition to the other fees and taxes levied by this Act the following:

(a) A tax of Sixty cents (60c) per gallon on each gallon of spirituous alcoholic liquor containing more than seventeen per cent (17%) alcohol by weight, sold or offered for sale in this State except denatured and industrial alcohol.

(b) A tax of Thirty Cents (30c) per gallon on each gallon of spirituous alcohol liquor containing not more than seventeen per cent (17%) alcohol by weight, sold or offered for sale in this State.

(c) A tax of Two Cents (5c) on each gallon of still wine that does not contain over seventeen per cent (17%) of alcohol weight sold or offered for sale in this State.

(d) A tax of Five Cents (10c) on each gallon of still wine containing more than seventeen per cent (17%) of alcohol by weight, sold or offered for sale in this State.

(e) A tax of Fifty Cents (50c) on each gallon of still wine containing alcohol in excess of seventeen per cent (17%) by weight, sold or offered for sale in this State.

(f) A tax of Twenty-Five Cents (25c) on each gallon of natural sparkling wine sold or offered for sale in this State.

(g) A tax of Twenty-Five Cents (25c) on each gallon of artificially carbonated wine sold or offered for sale in this State.

(h) A tax of Fifteen Cents (15c) on each gallon of malt liquor containing alcohol in excess of four per cent (4%) by weight sold or offered for sale in this State.

The tax herein levied shall be paid by affixing stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with all rules and regulations promulgated in pursuance of this Act. It shall be the duty of the holders of wholesalers, beer and wine wholesalers and winery permits to affix



said stamps on each bottle or container of liquor and to cancel the same by writing or printing thereon his name. In the case of wines the stamp shall be affixed to the container and no further stamps shall be required if a portion or the whole of said contents of said original container be removed for resale as provided for in this Act. In case any bottle containing liquor be enclosed in a sealed metal container the affixing and cancellation of said stamps may be governed by rules and regulations promulgated hereunder that may allow for the affixing of said stamps to such metal container; provided that when stamps have been once affixed, as provided in this Act, no other or further stamps shall be required, regardless of how often such liquor may be sold or resold within the State; provided further, that the stamps shall be affixed in such manner that their removal will require continued application of steam or water. Every holder of a wholesaler's permit shall, upon receipt of a shipment of liquor for sale within this State, under the provisions of this Act, within twenty-four (24) hours after receiving the same and before it is offered for sale, prepare a true invoice thereof and give such other information in respect thereto as may be required by rules and regulations. Any holder of a wholesaler's permit, a distiller's permit, rectifier's permit, beer and wine wholesaler's permit or a brewer's permit, having in possession any liquor intended for shipment to any place without the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of the sum of twenty-five (25c) cents, shall be made for every such stamp. All such permittees authorized to transport liquor beyond the boundaries of this State shall furnish duplicate copies of all invoices for the sale of such liquors

within twenty-four (24) hours after such liquors have been removed from their place of business.

Sec. 25. Whenever any of the persons licensed under this Act fail to account for any taxes or license fees levied herein, or defaults in any of the conditions of his bond, or fails or refuses to pay the Commissioner any obligation or liability, forfeiture or penalty imposed upon him by this Act, the Commissioner shall report the same to the Attorney General who shall immediately institute the necessary action in a District Court of Travis County, Texas, and the county and district attorneys of the various counties of the State shall likewise assist the Commissioner in the performance of this duty.

Sec. 26. Whenever the term "dry area" is used in this Act it shall mean and refer to all counties, justice precincts, incorporated cities or towns wherein the sale of intoxicating liquors had been prohibited by valid local option elections held under the laws of the State in force at the time of the taking effect of Section 20, Article XVI, Constitution of Texas, in the year 1919. It likewise shall mean and refer to any such area where such sale shall be prohibited under the terms of this Act.

The term "wet area" shall mean and refer to all counties, justice precincts, incorporated cities or towns where the sale of intoxicating liquors had not been prohibited by local option elections held under the laws of the State and in force at the time of the taking effect of Section 20, Article XVI, Constitution of Texas, in the year 1919. "Wet area" shall likewise mean and refer to any such area as shall by local option election vote to legalize the sale of intoxicating liquors.

Neither the term "wet area" nor "dry area" shall in any wise modify the status of counties or their political subdivisions that have held or shall hereafter hold local option elections under the provisions of Chapter 116, Acts of the Regular Session of the Forty-third Legislature.

The word "person" or "persons", used in this Act, shall be held and construed to mean and include persons, firms, and corporations and all associations of natural persons, incorporated or unincorporated, whether acting by themselves or by a servant, agent or employee.

The courts of this State shall take judicial knowledge of the status of wet and dry areas as herein defined in any criminal prosecution instituted, either by complaint, information or indictment.

Sec. 27. It shall be unlawful for any person to sell or offer for sale in this State any alcoholic liquors under the name or brand of "whiskey", or that has printed or otherwise labeled upon the bottle or container containing such alcoholic liquor the term "whiskey", unless such alcoholic liquor be an alcoholic distillate from fermented mash of grain or be a combination, mixture, or blend of such distillates from fermented grains, to which there has been added neither alcohol nor other spirits distilled from material other than grain. This section shall not apply to foreign types of whiskey that were manufactured in and in compliance with the laws of foreign countries.

Sec. 28. In any city where the sale of liquor as herein defined is prohibited by its charter from being sold in its residence section, or any part thereof, such charter amendment shall remain valid and continue effective until such time as said charter provision may be repealed or amended as provided by law.

Sec. 29. No sale or delivery of liquor shall be made on or from the premises of the holder of any permit (except upon the prescription of a duly licensed physician);

(a) Between midnight and seven o'clock A. M. on any day;

(b) On any day on which any primary or general election is being held either State or National, in the District in which the permittee is located;

(c) On any day on which an election either county or municipal is held in the municipality in which the permittee is located;

(d) On Sundays;

(e) No liquor shall be sold at any time within three hundred (300) feet of any church or school.

Sec. 30. It shall be unlawful for the holder of any permit selling liquor at retail to employ in his place of business any person under the age of twenty-one years to sell, deliver or otherwise handle liquor. It shall further be unlawful for any person to knowingly sell, deliver or give away any liquor to any person

by confinement in the county jail for not less than thirty (30) days nor more than one (1) year. If a person has knowledge or reason to believe that this room, house, building, boat, vehicle, structure or place is occupied or used for the manufacture or sale of liquor contrary to the provisions of the laws of this State and suffers the same to be so occupied or used, such room, house, building, boat, vehicle, structure or place shall be subject to alien for and may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation and any such lien may be enforced by action in any court having jurisdiction.

All intoxicating liquors transported in this State upon which any lawful tax to the State has not been paid for the purpose of this section shall be deemed to be kept in violation of the laws of this State.

(b) If a person shall have in his possession within this State any distilled liquors not contained in a container to which is affixed a stamp or other valid evidence showing the payment of the tax on such whiskey due to the State of Texas, he shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10), nor more than Five Hundred Dollars (\$500), or be confined in the county jail not more than six (6) months, or both.

(c) When any sheriff or deputy sheriff or constable or deputy constable, or any police officer, or any other State or local officer charged with the duty of enforcing the criminal laws of this State shall discover any person in the act of transporting in violation of the law, intoxicating liquors in any wagon, buggy, automobile, water or air craft or other vehicle, it shall be his duty to seize any and all intoxicating liquors found therein transported contrary to law. Whenever intoxicating liquors transported or possessed illegally shall be seized by an officer he shall take possession of the vehicle and team or automobile, boat, air craft, water craft or any other conveyance and shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested, and against all persons, firms and corporations directly or knowingly permitting such use of such vehicle, under the pro-

under the age of twenty-one years, or to any person who is visibly intoxicated, or to any person known to be an habitual drunkard or to any insane person.

Sec. 31. No person shall transport into this State or between points in this State upon any public highway any liquor for sale unless the person accompanying and in charge of such shipment shall have present and available for exhibition such bills of lading, evidence of ownership, or shipment, as the Commissioner may, by rules and regulations require, and no person shall refuse to exhibit or permit to be read or examined any such bill of lading, evidence of ownership, or shipment, by any agent or employee or deputy of the Commissioner or any peace officer of this State.

Sec. 32. If any person shall forge or counterfeit or cause or permit to be forged or counterfeited any stamp, die, plate, official signature, certificate, evidence of tax payment, permit, license or other instrument or any part of any stamp, die, plate, official signature, certificate evidence of tax payment permit, license or other instrument, which has been provided for in this Act or which shall hereafter be provided for, or shall knowingly utter, use or pass the same, he shall be deemed guilty of a felony and shall be punished by confinement in the State penitentiary for any term of years not less than one or more than five.

Sec. 33. (a) Any room, house, building, boat, vehicle, structure or place where intoxicating liquor is manufactured, sold, kept or bartered in violation of the laws of this State and all intoxicating liquor and property kept and used in maintaining the same, is hereby declared to be a common nuisance and any person who maintains such a common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than one year. Any person who is twice convicted under the provisions of this section shall for the second and all subsequent offenses be punished by fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000) and

visions of law in any court having competent jurisdiction; but said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties in a sum double the value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide judgment of the court. The court upon the conviction of the person so arrested shall order the liquor destroyed, and unless good cause to the contrary is shown by the owner, shall order the sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the costs of the sale, shall pay all liens, according to their priorities, which are established, and by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lien or having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor and shall pay the balance of the proceeds into the Treasury of the State to the credit of the General Revenue Fund. All liens against property sold under this section shall be transferred from the property to the proceeds of its sale. If, however, no one shall be found claiming the team, vehicle, water or air craft, or automobile, the taking of the same with a description thereof, shall be advertised in some newspaper published in such city or county where taken, or if there be no newspaper published in such city or county, any newspaper having a circulation in the county, once a week for two weeks and by hand bills posted in three (3) public places near the places of seizure, and if no claimant shall appear within ten (ten) days after the publication of the advertisement the property shall be sold and the proceeds after deducting the expenses and costs shall be paid into the Treasury of the State for the benefit of the general revenue fund.

All liquors illegally transported in this State upon which any lawful tax due to the State has not been paid, for the purposes of this sec-

tion, shall be deemed to be transported contrary to law.

No officer making an arrest under this section shall be entitled to assess, collect or receive a fee for making such arrest unless the defendant is convicted in a contested trial.

Sec. 34. That any liquor found in the possession of any one in this State not having affixed to the bottle or container the stamps required by this Act, except in the case of wines if satisfactory proof be given that the same has been withdrawn from a tax-paid container, or unless it has affixed to the bottle, or container a stamp stating that the same has been withdrawn from a tax-paid container, (the Commissioner shall promulgate regulations for the affixing of such stamps) is hereby declared to be contraband and the same may be seized by the Commissioner or by any of his agents or employees, or by any peace officer, without warrant, and the sheriff of the county in which such seizure is made shall take possession of said liquor so seized for sale at public auction to the highest bidder after due advertisement for a period of ten (10) days, but no sale shall be made to any person other than the holder of wholesaler's or package store permit, and the sheriff, before the delivery of any liquor so seized to any purchaser, shall require the purchaser to affix the proper amount of stamps to the individual containers as herein provided. Any other confiscation of liquor authorized by the provisions of this Act shall be handled in a like manner. The costs of confiscation and sale shall be paid out of the proceeds derived from such sale. After the costs of such sale have been paid any balance remaining shall be remitted to the Commissioner. It is further provided that any liquor transported in violation of any provision of this Act shall be subject to confiscation and the same shall be sold in the manner herein provided. It is further provided that no liquor of questionable purity and content shall be sold at public auction, but the same shall be destroyed by any officer so seizing the same upon an order of the District court of the county where the same was seized if such court be of the opinion that such liquor should, for such reason,

be destroyed. It is further provided that no liquor sold at public auction as herein provided shall be delivered within a period of five (5) days after such sale, during which time the Commissioner may, in his discretion, reject any bids and order the liquor resold until a satisfactory bid is had.

Sec. 35. It shall be the duty of all peace officers of this State, including city, county, and state, to enforce all provisions of this Act and to assist the Commissioner in detecting violations of this Act and apprehending offenders and of county courts, in case of violation to make recommendations to the Commissioner for revocation of permits. Whenever any officer shall arrest any person for violation of this Act, he shall take into his possession all liquor which the person so arrested has in his possession, or on his premises, which is apparently being used in violation of this Act. In the event the person so arrested is convicted finally, and it is found that the said liquor has been used in violation of this Act, the same shall be forfeited to the Commissioner and shall be delivered by the court or officer to him to be disposed of as herein provided.

Sec. 36. The Commissioners Court of each county in the State, whenever they deem it expedient, may order an election to be held by the qualified voters in said county, or of any justice precinct, incorporated city or town, to determine whether or not the sale of liquors of the various types and alcoholic contents herein defined shall be prohibited or legalized in such county, justice precinct, incorporated town or city; provided it shall be the duty of said court to order the election as aforesaid whenever petitioned to do so by as many as ten per cent (10%) of the qualified voters of said county, or of said political subdivisions, taking the votes for Governor at the last preceding general election as the basis for determining the qualified voters in any such county or political subdivision. After the first local option election held as provided in this Act, in any county, justice precinct, incorporated town or city, no subsequent election upon the same issue in the same county, justice precinct, incorporated

city or town shall be held for the purpose of determining whether or not such liquor shall be legalized or prohibited earlier than one (1) year from the date of the preceding local option election in said county or said county or said political subdivision of said county.

Sec. 37. When the Commissioners' Court, of their own motion or upon the petition provided for, shall order an election as herein provided for, it shall be the duty of said court to order such election to be held at the voting places within such subdivision or county upon a day not less than ten (10) nor more than twenty (20) days from the date of said order, and the order thus made shall express the object of such election and shall be held to be prima facie evidence that all the provisions necessary to give it validity or to clothe the court with jurisdiction to make it valid, have been duly complied with, provided that said court shall appoint such officers to hold such elections as is now required by law for general elections.

Sec. 38. The Clerk of said court shall post or cause to be posted at least one (1) copy of said order in each election precinct in such political subdivision or county affected, for at least six (6) days prior to the day of election, which election shall be held and the return thereof made in conformity with the provisions of the General Laws of the State, and by the election officers appointed and qualified under such laws,

Sec. 39. (a) At said election the vote shall be by official ballot which shall have printed or written at the top thereof in plain letters the words "Official Ballot." Said ballot shall have also written or printed thereon the issue or issues in words and figures prescribed by Section 44 of this Act, which shall be submitted by the order of the Commissioners' Court and the Clerk of the County Court shall furnish the presiding officer of each voting box with a number of such ballots to be not less than twice the number of qualified voters at such voting box, and the presiding officer of each voting box shall write his name on the back of each ballot before delivering same to the voter and each person offering to vote at such election shall, at the

time he offers to vote be furnished by such presiding officer with one such ballot and no voter shall be permitted to depart with such ballot and shall not be assisted in voting by any person except by such presiding officer or by some officer assisting in the holding of such election under the discretion of such presiding officer when requested to do so by such voter.

(b) Those who favor the sale of liquor of the type or types and alcoholic contents that may be submitted at any such election shall erase the word "Against," and the words following, by making a pencil mark through same, and those who oppose it shall erase the word "For" and the words following, by making a pencil mark through same. No ballot shall be received or counted by the officers of such election that is not an official ballot and that has not the name of the presiding officer of such election written thereon in the handwriting of such presiding officer as provided by this Act.

(c) The Commissioners' Court of each county in the State, whenever they deem it expedient, may order an election to be held by the qualified voters of any area which constituted a justice precinct, incorporated city or town, which had voted to prohibit the sale of intoxicating liquors within the adoption of Section 20 of Article XVI of the Constitution as the same was amended in 1919, for the purpose of determining whether or not the sale of liquors of the various types and alcoholic contents herein defined shall be legalized within such area; it shall be the duty of said court to order an election within said area when as many as fifty (50) qualified voters of said area shall so petition said court; said election shall be held in conformity with the provisions of this Act, and the commissioners' court shall designate the officers of election and places of election within said area; the order of election shall describe said area by metes and bounds. In the event any such area shall vote by a majority vote of those voting to legalize the sale of liquors within the boundaries of said area, then and in that event said area shall thereafter be governed by the laws pertaining to

the sale of intoxicating liquors within the city, town, justice precinct or county in which that area is located.

Sec. 40. The officers holding such election shall, in all respects not herein specified, conform to the General Election Laws in force regulating elections and after the polls are closed proceed to count the votes and within three (3) days thereafter make due report of said election to the aforesaid court. The provisions of the General Election Laws shall be followed in calling and conducting said election where not inconsistent herewith.

Sec. 41. Said court shall hold a special session on the fifth day after the holding of said election, or as soon thereafter as practicable, for the purpose of canvassing the votes and certifying the results, and if a majority of the votes are against the sale of liquor of any type or types and alcoholic contents submitted on said ballot said court shall immediately make an order declaring the results of said vote, and absolutely prohibiting the sale thereof within the said political subdivision after thirty (30) days from the date of declaring the results thereof, and thereafter until such time as the qualified voters therein may thereafter at a legal election held for such purpose by a majority vote decide otherwise; and the order thus made shall be held to be prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes, and declaring the results thereof.

Sec. 42. The order of said court declaring the result and prohibiting the sale of any liquor shall be published by the posting of said order at three (3) public places within the county or the political subdivision in which the election was held, which fact shall be entered by the County Judge on the minutes of the Commissioners' Court. An entry thus made or a copy thereof certified under the hand and seal of the Clerk of the Court shall be prima facie evidence of such posting.

Sec. 43. If a majority of those voting at such election vote for the sale of liquor of any type or types

and alcoholic contents the Court shall make an order declaring the results and have the same entered of record in the office of the Clerk of said Court, whereupon it shall be lawful in such subdivision to manufacture, sell and distribute such liquor in accordance with the terms of this Act until such time as the qualified voters therein may thereafter, at a legal election held for that purpose by a majority vote of those voting decide otherwise, and the order thus made shall be held to be prima facie evidence that all the provisions of law have been complied with in giving notice of and holding said election and counting and returning the votes and declaring the results thereof. It shall be the duty of the County Clerk, within three (3) days after the results of any such election have been declared to certify such results to the Secretary of State at Austin.

Sec. 44. The Commissioners' Court shall have the power upon its own motion or upon petition as herein provided to order local option elections for the purpose of determining whether liquor of the various types and alcoholic contents herein provided shall be legalized or prohibited.

Alcoholic liquors are hereby classified as to types as follows:

Type "A"—Vinous or malt liquors containing not more than 4% alcohol by weight.

Type "B"—Vinous or malt liquors containing not more than 17% alcohol by weight.

Type "C"—Any combination or dilution or any combination and dilution of alcoholic liquor or liquors provided such combination or dilution or combination and dilution contains not more than 19% alcohol by weight.

Type "D"—All alcoholic liquors containing more than 17% alcohol by weight and not included in Type "C".

In any area where a petition requests or the Commissioners' Court desires to submit the question of increasing the alcoholic content of liquors authorized to be sold therein one or more of the following issues may be submitted.

(a) "For legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of four per

cent (4%) by weight" and "Against legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of four per cent (4%) by weight."

(b) "For legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of seventeen per cent (17%) by weight," and "Against legalizing the sale of vinous and malt liquors that do not contain alcohol in excess of seventeen per cent (17%) by weight."

(c) "For legalizing the sale of vinous, malt and other liquors that contain alcohol in excess of 17% by weight" and "Against legalizing the sale of vinous, malt and other liquors that contain alcohol in excess of 17% by weight."

(d) "For the legalizing of sales of mixed drinks containing not more than 19% alcohol by weight, for consumption on the premises where sold," and "Against legalizing the sale of mixed drinks containing not more than 19% alcohol by weight, for consumption on the premises where sold."

(e) "For legalizing the sale of all liquors" and "Against legalizing the sale of all liquors."

In any area where it is desired to decrease the alcoholic content of liquors authorized to be sold therein the following issues may be submitted:

(a) "For prohibiting the sale of vinous and malt liquors that contain alcohol in excess of 4% by weight" and "Against prohibiting the sale of vinous and malt liquors that contain alcohol in excess of 4% by weight."

(b) "For prohibiting the sale of vinous and malt liquors that contain alcohol in excess of 17% by weight," and "Against prohibiting the sale of vinous and malt liquors that contain alcohol in excess of 17% by weight."

(c) "For prohibiting the sale of mixed drinks containing not more than 19% alcohol by weight for consumption on the premises where sold," and "Against prohibiting the sale of mixed drinks containing not more than 19% alcohol by weight for consumption on the premises where sold."

(d) "For prohibiting the sale of all liquors" and "Against prohibiting the sale of all liquors."

The Commissioners' Court shall

have power to submit any one or more issues upon the same ballot at the same election.

In any area where it shall be unlawful now or hereafter to sell Type "B" or Type "D" liquor, it shall also be unlawful to sell Type "C" liquor. The legalization of Type "B" or Type "D" liquor, or both, shall not of itself legalize Type "C" liquor. In areas in which it is now or may hereafter be unlawful to sell Type "C" liquor, such may be legalized by local option elections on that specific issue.

If a majority of the votes cast be in favor of prohibition Type "C" liquor, such shall not operate of itself as a restriction upon the sale of other liquors. The legalization of all liquors shall not serve to legalize Type "C" but such must be done by vote when the specific issue of the legalization of Type "C" is submitted.

Sec. 45. Any person who shall violate any of the provisions of this Act or any rule or regulation of the Commissioner shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by fine of not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, and for the second or subsequent violation such person upon conviction shall be punished by a fine of not less than Two Hundred (\$200.00) Dollars and not more than One Thousand (\$1,000.00) Dollars or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment.

The possession of a license to sell spirituous, vinous and malt liquors issued by the Government of the United States shall be prima facie evidence that such person, when found in the possession of such license, is engaged in the business of selling such liquors.

Sec. 46. The Commissioner shall prescribe, have prepared and furnish, stamps of such denominations and quantities as may be necessary for the payment of the tax imposed and assessed by this Act. He shall likewise prepare and have printed from time to time all forms necessary to perform his duties.

Sec. 47. For the purpose of enabling the Commissioner to immediately begin the performance of his duties, there is hereby appropriated out of any money in the General Revenue Fund of the State, not otherwise appropriated, the sum of Twenty-five Thousand (\$25,000.00) Dollars and said sum shall be immediately available. It is hereby declared to be the legislative intent that no further appropriation shall be made out of the General Revenue Fund to the Commissioner but that the expenses of operation shall be paid out of the funds collected from fees and taxes imposed by this Act. The Commissioner is hereby authorized to set up a revolving fund in the sum of Fifty Thousand (\$50,000.00) Dollars to be maintained at all times out of revenues derived under the provisions of this Act. Said fund shall be used by the Commissioner for the payment of salaries and other expenses necessary in performing his duties and the same is hereby appropriated.

Sec. 48. The Commissioner is hereby authorized to cause to be printed immediately ten thousand (10,000) copies of this Act in pamphlet form for distribution, and as many additional copies as may be required. He shall cause the same to be distributed to all district and county attorneys in this State, to the several district judges of the State, to the county judge of the various counties, and to such other officers and persons in this State as he may deem necessary. The expense of printing such copies shall be paid out of the fees and taxes herein levied and assessed.

Sec. 49. Chapter 7 of Title 11, Penal Code of Texas of 1925, and all amendments thereto are hereby expressly repealed. Title 80, Revised Civil Statutes, 1925, and all amendments thereto are hereby expressly repealed.

Sec. 50. (a) The manufacture, sale and distribution of beer containing one-half ( $1/2$ ) of one per cent (1%) or more of alcohol by volume and no more than four per centum (4%) of alcohol by weight, is hereby authorized within the State of Texas, subject to the terms and conditions herein imposed.

(b) It shall continue to be unlawful to manufacture, sell, barter or

exchange in any county, Justice's Precinct or incorporated city or town any malt liquor containing in excess of one-half ( $1/2$ ) of one per cent (1%) alcohol by volume except in counties, Justice's Precincts or incorporated cities or towns wherein the voters thereof had not adopted prohibition by local option elections held under the laws of the State of Texas and in force at the time of taking effect of Section 20, Article 16 of the Constitution of Texas in 1919; except that in counties, Justice's Precincts or incorporated cities or towns wherein a majority of the voters have voted to legalize the sale of beer in accordance with the local option provisions of Chapter 116, Acts of the Regular Session of the Forty-third Legislature, beer may continue to be sold lawfully. It is expressly provided, however, that local option elections may be held in any county, Justice's Precinct or incorporated city or town within this State in accordance with the provisions of Sections 36 to 44 inclusive, of the Texas Liquor Control Act, for the purpose of determining from time to time whether the sale of beer shall be prohibited or legalized within the prescribed limits; and it shall be unlawful to sell beer in any county, Justice's Precinct or incorporated city or town wherein the same shall be prohibited by local option election, and lawful to sell beer under the provisions hereof in any county, Justice's Precinct, or incorporated city or town wherein the sale of beer shall be legalized by local option election.

(c) The word "beer" as hereinafter used in this Act and for the purposes of this Act to govern the manufacture, sale and distribution of beer, shall mean any malt beverage containing one-half ( $1/2$ ) of one per cent (1%) or more of alcohol by volume and not more than four per centum (4%) of alcohol by weight.

Sec. 51. (a) Beer can be manufactured, sold and distributed in barrels, kegs, bottles and other containers.

(b) As a standard of measure, the word "barrel" shall mean a container containing thirty-one (31) gallons.

Sec. 52. (a) A "manufacturer"



is hereby defined to be any person licensed to manufacture or brew beer and to distribute and to sell same to others in the original package or container.

(b) A "general distributor" is hereby defined to be any person licensed to distribute or to sell beer to local distributors, retail dealers and/or others in the original package or container.

(c) A "local distributor" is hereby defined to be any person licensed to sell and distribute beer to retail dealers and ultimate customers in the county of his residence in unbroken packages not to be consumed on the premises where sold.

(d) A "retail dealer" is hereby defined to be any person licensed to sell beer in bottles and from kegs, barrels or other containers to the ultimate consumer.

(e) A "general distributor" shall procure the primary license in the county of his domicile or residence, and if he desires to establish any place of business in any other county, he shall present his license secured from the county of his residence to the Assessor and Collector of Taxes of such County, together with a license fee of Fifty Dollars (\$50.00) and it shall be the duty forthwith of such Assessor and Collector of Taxes to issue a license for such general distributor in such county.

(f) A distributor, local or general, may maintain necessary warehouses, for storage purposes only, from which delivery may be made without such warehouses being licensed.

(g) "Person" shall include any corporation, partnership, association and person or group of persons.

Sec. 53. It shall be unlawful for any person to manufacture or brew for the purpose of sale or to sell or distribute any beer without first having applied for and secured a license as required by this Act.

Sec. 54. Before any license required by this Act shall be issued, the license fee required therefor shall be paid to the Assessor and Collector of Taxes of the County where such license is issued for the use and benefit of the General Fund of the State of Texas. Annual fees required for license authorized by this Act shall be as follows:

(a) For a license authorizing the manufacture and sale by a manufacturer.....	\$500.00
(b) For a general distributor .....	200.00
(c) For a local distributor .....	50.00
(d) For a license authorizing the sale of beer by retail dealer for consumption on or off the premises where sold .....	25.00
(e) For a license authorizing the sale of beer by retail dealer in the original container direct to the consumer, but not for resale and not to be consumed on the premises where sold .....	10.00

(f) All license issued under the terms of this Act shall terminate at midnight on the thirty-first day of December of each year and no license shall be issued for a longer term than one year. On or before the first day of January, 1936, and annually thereafter each and every person owning a license issued under the terms of Chapter 116, Acts of the Forty-third Legislature, Regular Session, or any amendment thereto, may by written application filed with the Assessor and Collector of Taxes of the County of his residence, not more than thirty (30) days prior to the first day of January, renew such license so held by him. Such application shall be in writing, signed by the applicant and contain full and complete information as to the business to be conducted and all other information as set out and required in the original application upon which such original license was issued, accompanied by a fee of Two Dollars (\$2.00), which said sum of Two Dollars (\$2.00) shall be in addition to the amounts in this Act required to be paid for annual licenses, as a renewal fee charge. Such sums so paid as renewal fee charges shall be deposited in the County Treasury by the respective Assessors and Collectors of Taxes as fees of office and be so accounted for by them respectively. Upon the presentation of such application for renewal of license, together with the sums required by this Act for an annual license, plus the said renewal fee of Two Dollars (\$2.00), it shall be the duty of the

Assessor and Collector of Taxes to forthwith issue such renewal license upon the form to be prescribed by the Division of Liquor Control; provided, however, that no applicant for a license under the terms of this Act governing the manufacture, sale and distribution of beer, shall be required to pay at any one time more than the annual fees required for licenses hereunder, and the renewal fee of Two Dollars (\$2.00) herein provided; but such applicant shall always be required to pay such fees in advance and if such license so sought is for a portion of a year only, then the fee required to be paid for the issuance of such license shall cover the period of time from the date of such license to midnight of the thirty-first day of December following, and only such proportionate part of such annual license fee as required under the terms of this Act as the period of time between the date of such license and the thirty-first day of December following bears to the calendar year shall be required to be paid by such applicant.

(g) No manufacturer, general distributor, local distributor or retail dealer shall carry on such business at more than one place under the same license, but a separate license must be obtained for each place of business, nor shall any such license be voluntarily assigned more than once, but before assignee of such license can engage in business thereunder he or they shall comply with the provisions of this Act as required by original licensee and provided further that the sale of such license, whether in the name of the original licensee or assignee, may be made under execution or mortgage and the purchaser of such license in such sale shall have the right to surrender such license to the State or County which issued the tax receipt which is the basis thereof and shall receive therefor the pro rata unearned portion of such license provided that should said original licensee or his assignee desire to change the place designated in said license he may do so by applying to the County Judge as in the case of the original application for license as provided in this Act.

(h) The Commissioners Court of

each county in this State shall have the power to levy and collect from every person that may be licensed hereunder in said County a license fee equal to one-half ( $\frac{1}{2}$ ) of the State fee; and the city or town wherein the licensee is domiciled shall have the power to levy and collect a license fee not to exceed one-half ( $\frac{1}{2}$ ) of the State fee, but no other fee or tax shall be levied by either. But nothing herein contained shall be construed as preventing the levying, assessing and collecting general ad valorem taxes on the property of the said persons, individuals, partnerships or corporations so licensed.

(i) There is hereby provided a "Temporary License" authorizing the sale by a retail dealer of beer for consumption on or off the premises where sold. The fee for such "Temporary License" shall be Five Dollars (\$5.00). Such licenses shall be issued by the Assessor and Collector of Taxes upon application approved by the County Judge, but no such permit shall be issued to any person who does not also hold a license as provided in sub-section (d) of this Section, and no such permit shall authorize the sale of beer at any point outside the county where same is issued. Any such temporary license shall expire at the end of the fourth day after the date the same is issued. Fees collected upon the issuance of such temporary license shall be retained by the County, and no other fees shall be charged for such licenses; and no refund shall be allowed upon the surrender or non-use of any license. The County Judge shall issue such licenses only for the sale of beer at picnics, celebrations, or similar events, and may refuse to issue such license if in his judgment the issuance of the license would in any manner be detrimental to the public.

(j) Every license issued prior to the effective date hereof to any manufacturer, general distributor, local distributor or retail dealer, shall remain in force until midnight of December 1935, unless surrendered in the manner herein provided; provided, however, that the power and authority heretofore granted to the State Comptroller for the enforcement of Chapter 116, and the duties

imposed upon him are hereby transferred to and imposed upon the Division of Liquor Control; and provided that the schedule of license fees provided in subsection (d) and (e) of this Section 54 shall not be effective until January 1, 1936.

Sec. 55. (a) There is hereby levied and assessed a tax at the rate of one dollar and twenty-five (\$1.25) cents per barrel on all beer sold, stored or distributed in this State or imported into this State. On imported beer the duty of paying said tax and affixing and cancelling the tax stamp as required under this Act shall rest primarily on the importer, and it is hereby declared to be unlawful to import beer into this State unless said tax has first been paid and the tax stamp evidencing such payment has been first affixed and cancelled as required by this Act.

It is the intention of this Section to impose upon all persons importing beer into this State the duty of paying said tax and affixing said stamp as required by this Act before said beer is imported into the State. Provided, however, if it should be determined that this subsection imposes an undue burden on interstate commerce and for that reason is invalid, then, it is hereby declared to the legislative intent, nevertheless, to levy and collect the tax at the rate herein prescribed upon all beer sold, stored or distributed in this State, or imported into this State, and the duty of paying this tax shall rest upon the first person receiving, selling, storing or distributing said beer in this State; provided, further, however, that the tax herein prescribed shall be paid but one time.

No manufacturer, however, shall be required to affix any stamps on any container of beer to be transported out of this State while same is stored in any brewery where same is brewed.

It shall be unlawful to transport to destinations in this State any beer upon which said tax has not been paid.

(b) Said tax shall be paid and evidenced by placing stamps as hereafter provided in the denomination required on each original barrel, keg, box, carton or other container in which beer in bulk or in bottles is packed; provided, however, that such container shall not contain more than the content of one (1) barrel of beer;

and provided further that at the time such stamp is affixed, the person affixing the same shall by indelible ink or stamp cancel said revenue stamp by placing the date and his or its full name or initials on said revenue stamp.

(c) Provided, further, that if at the time said beer is received in this State, said stamps, as required by this Act, have already been affixed and/or dated and initialed, the person receiving the same shall be relieved therefrom, but he shall not be relieved from dating or initialing the same if no initial or date appears on said stamp upon receipt of said beer.

(d) Said stamp shall be placed on each barrel, keg, carton, box or other container upon which the stamp is required to be affixed in such way that such container cannot be conveniently and practically opened without mutilating or defacing said stamp. Every person opening any such container upon which a stamp has been placed shall at the time mutilate or otherwise deface such stamp so that the same cannot be used again.

(e) No bottled beer shall be stored in this State unless the same be in a container, unless the same is exposed for sale or is being cooled for sale, except when the same is legally in the possession of the ultimate consumer; nor shall any beer be stored or sold in this State except to the ultimate consumer, unless the same is packaged or contained in a container properly stamped.

(f) If any person has paid the tax on any containers of beer and affixed stamps thereon, and thereafter said beer is shipped out of Texas for consumption, a claim for refund may be made on paying a fee of Five Dollars (\$5.00) to the Division of Liquor Control at the time and in the manner prescribed by such Commissioner. So much of any funds derived hereunder as may be necessary not to exceed two per centum (2%) thereof is hereby appropriated for such purpose. The Commissioner may promulgate rules and regulations generally for the enforcement of this Act.

Sec. 56. It is the purpose and intent of this Act to require the tax to be paid and the stamp evidencing the same be affixed on the first sale, distribution, storage or transportation and at the source, to the end

that it will preclude any person evading the payment of this tax, and so as to relieve as nearly as possible the consumer and retail dealer from having to affix said stamps.

Sec. 57. (a) It shall be the duty of the State Treasurer to have engraved or printed the stamps necessary to comply with this Act and to sell same to all persons upon demand and payment therefor, and one-half ( $\frac{1}{2}$ ) of the proceeds of such sale shall be placed to the credit of the State Available School Fund and one-half ( $\frac{1}{2}$ ) to the General Fund, and the State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official bond. Such stamps shall be of such design and denomination as the State Treasurer shall from time to time prescribe and shall show the amount of tax, the payment of which is evidenced thereby, and shall contain the words "Texas State Tax Paid".

(b) The sum of Five Thousand Dollars (\$5,000.00) or so much thereof as may be necessary, is hereby appropriated out of the General Fund with which to pay the costs of providing such stamps. All appropriations of monies authorized by the Forty-Fourth Legislature, Regular Session, 1935, for enforcement of the provisions of Chapter 116, Acts Regular Session, Forty-Third Legislature, by the Comptroller of Public Accounts, are hereby transferred and made available for expenditure by the Division of Liquor Control in the enforcement of this Chapter as amended.

Sec. 58. (1) It shall be unlawful for any manufacturer or distributor directly or indirectly or through a subsidiary or affiliate, any agent or any employee, or by any officer, director, or firm member;

(a) Ownership of Interest or Real Estate: To own any interest in of any retail dealer in beer, or own any interest of any kind in the premises in which any such retail dealer conducts his or its business.

(b) Retail Licenses: To hold (after the expiration of any existing licenses) the ownership or any interest in any license to sell brewery products for consumption on the premises covered by such license, except the license of manufacturers to dispense their own products on the brewery premises.

(c) Loans and Guarantees: To furnish, give or lend any money or other thing of value, or to extend unusual credit terms, to any person engaged in selling brewery products for consumption on the premises where sold, or to any person for the use, benefit or relief of said person engaged in selling as above or to guarantees the repayment of any loan or the fulfillment of any financial obligation of any person engaged in selling as above. The extension of credit for longer period of time than is generally extended to regular customers of a manufacturer or distributor covering the purchase of brewery products from such manufacturer or distributor shall be deemed unusual credit terms.

(d) Consignment Sales: To make or enter into any agreement or contract, the effect of which will amount to the shipment or delivery of brewery products on consignment. "Consignment," as here used, means the delivery of products under an arrangement whereby the person receiving such products has the right at any time prior to sale to relinquish possession to or return them to the shipper, and whereby the title to such products remains in the shipper.

(e) Equipment and Fixtures: To furnish, give, rent, lend or sell any equipment, fixtures or supplies to any person engaged in selling brewery products for consumption on the premises where sold. This subsection does not apply to such equipment, fixtures or supplies furnished, given, loaned, rented or sold prior to the effective date of this Act, except that such transactions made prior to this date are not to be used as a consideration for an agreement thereafter made respecting the purchase of brewery products; provided, that equipment, fixtures or supplies furnished, given, rented, loaned or sold to any person engaged in selling brewery products for consumption on the premises where sold, prior to the effective date of this Act, when removed from the premises of such person or repossessed by any manufacturer or distributor of brewery products, or by his agents or employees, shall not again be furnished, given, rented, loaned or sold to any person engaged in the sale of brewery products for consumption on the premises where sold.

This sub-section shall not apply to the practice of furnishing carbonic acid gas or tapping accessories, such as rods, bents, hose, washers, couplings, taps, vent tongues, and check valves to persons engaged in selling brewery products for consumption on the premises where sold, when a charge is made for such carbonic acid gas in accordance with the reasonable open market value thereof in the locality where furnished, and if the aggregate cost to any one person of all tapping accessories herein enumerated furnished to him by such manufacturer or distributor in any twelve months' period does not exceed Five Dollars (\$5.00) for each tapping unit used in dispensing brewery products purchased from such manufacturer or distributor.

(g) Allowance and Rebates for Advertising and Distribution Service: To pay or make any allowance to any buyer for a special advertising or distribution service: (1) Unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (2) Unless such service is rendered and the payment is reasonable and not excessive in amount; and (3) Unless such contract is separate and distinct from any sales contract; and (4) Unless such payment is equally available for the same service to all competitive buyers in the same class in the same trade area.

(h) Prizes and Premiums: To offer any prize, premium, gift, or other similar inducement, except advertising novelties of nominal value, to any dealer in or consumer of brewery products.

(i) Advertising: To publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical or other publication or by any sign or outdoor advertisement or any other printed or graphic matter, any advertisement of any brewery product, if such advertisement causes, or is reasonably calculated to cause deception of the consumer with respect to the product advertised. An advertisement shall be deemed misleading if it is untrue in any particular or if directly or by ambiguity, omission or inference it tends to create a misleading impression. Any advertisement of alcoholic content of any brewery product or any advertisement disparaging of a competitor's

products, or that is obscene or indecent, shall be unlawful.

(j) Misbranding: To sell or otherwise introduce into commerce any brewery product that is misbranded. A product is misbranded:

(1) Food and Drug Act Requirement.—If it is misbranded within the meaning of the Food and Drug Acts.

(2) Standards of Fill.—If the container is so made, formed or filled as to mislead the purchaser, or if its contents fall below the recognized standards of fill.

(3) Standards of Quality.—If it misrepresents the standard of quality of product in the branded container.

(4) Labels.—If it is so labeled that it purports to be any product other than is actually in the container.

(k) Exclusive Outlet: To require, by agreement otherwise, that any retailer engaged in the sale of brewery products shall purchase any such products from such person to the exclusion in whole or in part, of the products sold or offered for sale by any other person engaged in the manufacture or distribution of brewery products, or to require the retailer to take and dispose of a certain quota of any such product.

(1) Commercial Bribery: To give or permit to be given money or anything of value in an effort to induce agents, employees or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the maker of such gift, or to influence such employers or principals to refrain from dealing or contracting with competitors.

(m) Returnable Container: It shall be unlawful for any manufacturer to accept as a return or to purchase or use a hogshead, barrel, half-barrel, keg, case or bottle permanently branded or imprinted with the name of another manufacturer.

(n) Labeling: To manufacture or sell or otherwise introduce into commerce in this State any brewery product unless it bears a label showing in plain, legible type the name and address of the manufacturer, or the name of the distributor for whom any special brand is manufactured, the brand or trade name, and the net content of the bottle in terms of United States liquid measure; or to manufacture or sell or otherwise in-

introduce into commerce in this State any beer or container or dispensing equipment, carton or case for beer bearing a label or imprint which by wording, lettering, numbering or illustration, or in any other manner carries any reference or allusion, or suggestion to the alcoholic strength of the product or to any manufacturing process, ageing, analysis or scientific matter or fact, or upon which appears any such words or combination of words, or abbreviations thereof, as "strong," "full strength," "extra strength," "high test," "high proof," "pre-war strength," "full old time alcoholic strength," or any words or figures or other marks or characters alluding or relating to "proof," "balling" or "extract" contents of the product, or which bears a label that is untrue in any particular or which directly or by ambiguity, omission or inference tends to create a misleading impression or causes, or is reasonably calculated to cause, deception of the consumer or buyer with respect to the product.

(2) It shall be unlawful for any retail dealer to dispense any draft beer unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or the brand of the particular product being at the time dispensed through each faucet or other apparatus, which sign shall be in legible lettering and in full sight of the purchaser.

(3) Provided, that if any provision of this Section 58 is for any reason held unconstitutional and invalid, such decision shall not affect the validity of the remaining portions, and the Legislature hereby declares that it would have passed this Act and each section, sub-section, provision, sentence, clause or phrase thereof, irrespective of the fact that any provision is declared unconstitutional.

Sec. 59. (a) Any person desiring a license as manufacturer, distributor or retail dealer may in vacation or in term time file a petition with the County Judge of the county in which the applicant desires to engage in such business, which petition shall state as follows:

If a manufacturer:

(1) That he is a law abiding, tax-paying citizen of this State, over

twenty-one (21) years of age, that he has not been convicted of a felony within two (2) years immediately preceding the filing of said petition, and has been a resident of the county wherein such license is sought for more than two (2) years next preceding the filing of said petition.

(2) If a co-partnership, that all of the individuals have the same qualifications as provided in paragraph (1) above.

(3) If a corporation, that applicant is organized and chartered under and has complied with all corporation laws of this State applicable to such corporation; the principal place of business in such county where such license is sought, and the President or Manager shall make an affidavit that he is a law abiding, taxpaying citizen of this State, over twenty-one (21) years of age, and that he has not been convicted of a felony within two (2) years immediately preceding the filing of said petition.

If a distributor:

(1) Such applicant shall give the same information required of a manufacturer, including the place or places where such business is to be transacted.

If a retail dealer:

(1) The same information required of a manufacturer.

(2) Whether he desires to sell beer for consumption on or off the premises.

If an individual:

(1) That the applicant shall make affidavit duly signed and sworn to before any person authorized to administer oaths under the laws of this State, showing that he has not since the effective date of this Act, naming the date in the affidavit, and within two (2) years next preceding the making of said application and while engaged in the manufacture, sale or distribution of beer, paid, contributed or furnished any money or thing of value to any candidate for any public office in this State.

If the application is in behalf of a corporation, the affidavit shall be by the president, vice-president, secretary or treasurer of such corporation and shall contain a statement that the corporation has not paid, contributed or furnished any money or thing of value to any candidate for any public office in this State

since the effective date of this Act, naming the date in the affidavit, and within two (2) years next preceding the making of said application and while engaged in the business of manufacturing, sale or distribution of beer. Any person who makes a false affidavit in reference to the matters and things required by this Section, shall be guilty of a felony, and upon conviction shall be punished as now provided by law for having committed the offense of false swearing.

(b) Such manufacturer, distributor, or retail dealer desiring to be licensed shall file said petition with the County Judge who shall set same for a hearing at a date not less than five (5) nor more than ten (10) days from the filing of same, and if upon hearing he finds the facts stated in such petition or true, he shall authorize a license to be granted as prayed for, provided, however, that upon the filing of such petition, the clerk shall first give notice thereof by posting at the courthouse door a written notice of the filing of said petition and a copy of the substance thereof, and such notice shall state when the petition shall be heard. Said petition may be inspected by any person. Any citizen shall be permitted to contest the facts stated in said petition and the applicant's right to secure license upon giving security for all costs which may be incurred in such suit, should the same be decided in favor of the applicant; provided, however, no county or district attorney shall be required to give bond for such costs, but the county or State as the case may be shall be liable therefor.

(c) Upon the court's authorizing a license to be issued, the Judge shall so certify and deliver a copy of such certification to the applicant, who shall thereupon present the same to the Assessor and Collector of Taxes and pay the fee required, whereupon it shall be the duty of the Assessor and Collector of Taxes to issue such a license on a form prescribed by the Commissioner showing the amount paid, date, classification and such other information that may be required by the Commissioner, including the correct address of the place of business. A copy of such license shall be sent by the Assessor and Collector of Taxes forthwith to

the office of the Division of Liquor Control and a record thereof kept in said office.

(d) In the event the County Judge denies the application for a license, he shall enter his judgment accordingly and the applicant may within thirty (30) days thereafter appeal to the District Court of the County where said application is made, and such District Court may hear and determine such appeal in term or vacation time by trial de novo. If the applicant shall prevail by final judgment, a certified copy thereof shall be presented to the Assessor and Collector of Taxes, who shall thereupon accept the fees required and license shall be issued as provided herein.

(e) Any manufacturer, distributor or person shipping or consigning beer into this State shall file with the Secretary of State a certificate certifying the name of his agent upon whom service may be had, his or its street address and business, and if such shall not have been done within fifteen (15) days from the effective date hereof then service may be had on the Secretary of State in any cause of action arising out of the violation of this Act governing the manufacture, distribution and sale of beer, and it shall be the duty of the Secretary of State to send any such citation served on him to such person who may be in a foreign state, registered, return receipt requested and such receipt will be prima facie evidence of service on such person.

Sec. 60. (a) Upon the payment of the fee to the Assessor and Collector of Taxes and the proper evidence from the County Judge that such applicant should be licensed, such Assessor and Collector shall issue to the applicant the proper license which shall be by him signed, be under the seal of his office, be dated, state on its face for what it is issued, date when it will expire, by whom and where such business is to be kept and whether licenses is to be conducted and shall describe the place where same is to be kept and whether licenses is authorized to act as manufacturer, general distributor, or retail dealer of beer as set out in the application.

(b) In the event of the death of any licensee or the dissolution of

any corporation or association of persons, leaving unearned portion of any license issued, the legal representatives of such deceased person or surviving partner or director of any such corporation may present the license of such person to the State and County and receive payment of the unearned portion of license fee collected, the State's portion to be paid out of the foregoing appropriation to the Division of Liquor Control.

(c) The Assessor and Collector of Taxes shall make statements to the Division of Liquor Control of the amounts collected by him at the times and in the manner as required by the Commissioner.

Sec. 61. (a) If any person manufactures or sells beer in this State as a manufacturer, distributor or retail dealer without then and there being licensed as a manufacturer, distributor or retail dealer respectively, or

(b) If any person or agent or representative of any manufacturer, distributor or retail dealer shall manufacture or sell beer for any manufacturer, distributor or retail dealer without such manufacturer, distributor or retail dealer being duly licensed as required by law, or

(c) If any person shall sell, transport, store or otherwise handle in intrastate commerce, or conspire to sell, transport, store or otherwise handle in intrastate commerce any beer without the stamp required in Section 55 hereof being placed on the container as required in such Section, or

(d) If any person shall open any such container having a stamp without then and there mutilating or otherwise defacing such stamp so that it cannot be again used, or

(e) If any person shall attach to any container of beer any stamp that has been theretofore attached to a different container of beer, or

(f) Shall refuse to allow on demand the Commissioner or any representative of the Division of Liquor Control to make a full inspection of any place where beer is being stored, transported, manufactured or otherwise handled, or

(g) If any person shall knowingly or willfully sell any beer to any person under the age of twenty-one (21) years, or

(h) If any person fails to display any license required by the provisions of this Act in some conspicuous place in the house where such business is conducted, or

(i) If any person shall sell or offer for sale in this State, whether as principal or agent, any beer unless the same be in or from the original container bearing the original label with the full name of the brewer or manufacturer of such beer, or the name and address of any distributor for whom a special brand is manufactured, both upon the label or bottle and/or upon the cap or cork of such bottle or upon the keg, or

(j) If any person shall employ any person under the age of eighteen (18) years to sell, handle or dispense, or to assist in the selling, handling or dispensing of beer in any establishment where beer is sold by retail to be consumed on the premises where sold, or

(k) If any person shall violate any provision of this Act whether specifically enumerated above or not,

(l) He shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine in the sum not less than Twenty-five (\$25.00) Dollars and not more than Five Hundred (\$500.00) Dollars, or by imprisonment in the County Jail not more than one year, or by both such fine and imprisonment, except when some other penalty is specifically provided by this Act, in which event the penalty specifically provided shall apply to the specific act or omission.

Sec. 62. (a) Each manufacturer and distributor shall be required to keep records of the amount of beer manufactured and/or bought or received by them and the amount sold, the amount of stamps purchased by them and the amount of stamps used by them and such other records as may be required to be kept by the Division of Liquor Control, which records at all times shall be open for the inspection of the Division of Liquor Control or its duly authorized representative at reasonable office hours.

(b) If any person shall commit any offense prescribed by Section 13 or violate any other provision of this Act, he shall also forfeit to the State a penalty not less than Fifty (\$50.00) Dollars not more than Five



Hundred (\$500.00) Dollars to be recovered by the State in a suit filed in Travis County or in any county in which such violation may have occurred, which money shall be paid into the State Available School Fund, and each day of such violation shall constitute a separate and distinct violation.

(c) Each sale to any person under twenty-one (21) years of age under the provisions of this Act shall constitute a separate offense.

(d) It shall be unlawful for any person in all counties or subdivisions thereof wherein the sale of beer as defined by this Act is authorized to be sold, to sell beer on the day of any general primary election or general election held in this State, between the hours of seven o'clock A. M. and eight o'clock P. M. of the day, and

(e) It shall be unlawful for any person engaged in or having any interest in any business which manufactures, sells or distributes beer, as defined in this Act, to contribute any money or any other thing of value toward the campaign expenses of any candidate for any office in this State.

(f) No person who may engage in the sale of beer, as a principal business and which is to be consumed on the premises, under the provisions of this Act shall offer for sale or sell such beer between the hours of twelve o'clock midnight and seven o'clock A. M. on each day as herein provided and from and after twelve o'clock midnight Saturday until seven o'clock A. M. Monday of the following week.

(g) The Commissioners' Court of any county in the territory thereof outside of incorporated cities and towns and the governing authorities of any city or town within the corporate limits of any such city or town may prohibit the sale of beer by any dealer whose principal business is the sale of beer where the place of business of any such dealer is within three hundred (300) feet of any church, school or other educational institution, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur. No license or permit shall ever be granted, nor shall beer ever be sold in or upon

any property, State Parks excepted, owner by or under lease by the State or within three hundred (300) feet of the grounds of the State Capitol. This shall not apply to property of the State which is under lease and being used and occupied by others.

(h) The County Judge of any county after ten (10) days notice and hearing may revoke the license of any licensee of such county:

1. When disorderly or immoral practices are permitted on the premises, or spirituous, vinous or malt liquors are illegally sold on the premises.

2. Where the word "saloon" is printed, painted or placed upon the door, window or in any other public place on or about the premises, or when the word "saloon" is used in any advertisement by the licensee.

Sec. 63. Any person, other than the State Treasurer or his duly authorized agent who shall print or engrave or directly aid in or cause the printing or engraving of any stamp or stamps evidencing or purporting to evidence the payment of any tax levied by this Act governing the manufacture, distribution and sale of beer, or who shall use or consent to the use of any counterfeit or unauthorized stamps in connection with the sale or offering for sale of any beer, or shall place or cause to be placed on any container containing or to contain such beer any such unauthorized or counterfeit stamps, or if any person shall knowingly possess any counterfeit stamps or shall counterfeit any license to be used in lieu of the stamps or license required by this Act governing the manufacture, distribution and sale of beer, he shall be guilty of a felony and upon conviction be punished by imprisonment in the penitentiary for not less than two (2) years nor more than five (5) years.

Sec. 64. Any person, whether as principal or agent of any firm, corporation or association of persons engaged in the business of manufacturing and selling or in the business of distributing and selling or in the retail business of selling beer under license which does not permit such beer to be opened and consumed on the premises where sold, who shall permit any such beer so manufactured and sold or distributed and

sold to be opened and consumed on the premises where sold, shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

Sec. 65. In addition to the penalties herein provided, the license of any person convicted of violating any of the provisions of this Act governing the manufacture, sale and distribution of beer shall be subject to forfeiture in a suit filed by the State for such purpose by reason of such conviction; and no license shall be reissued to any person whose license for any of such occupations has been revoked or forfeited within one (1) year next preceding the filing of his application for a new license.

Sec. 66. In case the license of any licensee hereunder is forfeited under the provisions of this Act, nevertheless such licensee shall be authorized to sell or dispose of in bulk any stock of beer he may have on hand at the time such license is forfeited.

Sec. 67. It is hereby declared to be lawful to transport beer, as herein defined, from any place in this State where the sale, manufacture and distribution of said beer is authorized by law, to any other place within this State where the same may be lawfully manufactured, sold or distributed; and from the State boundary to any such place, even though in the course of such transportation the route over which the same is being transported may traverse local option territory in which the manufacture, sale and distribution of said beer is prohibited. Provided, however, that any such shipment must be accompanied by a written statement furnished and signed by the shipper showing the name and address of the consignor and the consignee, the origin and destination of such shipment and it shall be the duty of the person in charge of such cargo while it is being so transported to exhibit such written statement to any peace officer making demand therefor, any said statement shall be accepted by such officer as prima facie evidence of the lawful right to transport such beer.

Sec. 68. In all cases where any person pursuing the occupation of

selling beer containing not more than four per centum (4%) of alcohol by weight under licenses issued in accordance with the laws of this State has been or shall hereafter be prevented from pursuing such occupation for the full time to which he would otherwise be entitled by reason of the adoption of local option in any county or subdivision thereof, the proportionate amount of license fees paid by him for the unexpired term shall be refunded to him.

Sec. 69. No "blinds" or barriers of any kind or character shall be installed or maintained in the openings or doors of any establishment whose principal business the sale of beer; neither shall any windows on said establishments be painted in such a way as to obstruct the views from the general public.

Sec. 70. Upon having called to his attention by affidavit of any credible person that any person is violating, or is about to violate, any of the provisions of this Act governing the manufacture, distribution and sale of beer, it shall be the duty of the Attorney-General or the District or County Attorney to assist in any proceedings to restrain any such person from the threatened or any further violation, and the District Judge shall have authority to issue restraining orders without hearing, and upon notice and hearing to grant injunction, to prevent such threatened or further violation by the person complained against, and may require the person complaining to file a bond in such amount and containing such conditions and in such cases as the Judge may deem necessary. Upon any judgment of the Court that violation of any restraining order or injunction issued hereunder has occurred, such judgment shall operate to cancel, without further proceedings, any license held by the person who is defendant in the proceedings, and no license shall be re-issued to any person whose license has been so cancelled, revoked or forfeited, within one (1) year next preceding the filing of his application for a new license. It shall be the duty of the District Clerk to notify the Assessor and Collector of Taxes and the Division of Liquor Control of any judgment of a Court which operated hereunder to cancel a license.

Sec. 71. If any part, section, sub-

section, paragraph, sentence, clause, phrase or word contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

Sec. 72. The fact that the people of Texas have adopted a Constitutional Amendment legalizing the sale of liquor in wet areas as herein defined and the further fact that the traffic in liquor in this State is unregulated at this time, create an emergency and an imperative public necessity that the Constitutional Rule requiring all bills to be read on three several days in each House be suspend, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Sec. 73. The provisions of Sections 49 to 71 both inclusive shall apply only to alcoholic beverages containing not more than 4% alcohol by weight unless otherwise provided herein.

#### MOORE.

##### Previous Question.

Senator Hill moved that the Senate order the previous question on the Moore amendment and the final passage of the bill.

The motion was duly seconded.

The previous question was ordered by a viva voce vote.

The Moore amendment lost by the following vote:

##### Yeas—8.

Blackert.	Shivers.
Hopkins.	Stone.
Moore.	Sulak.
Sanderford.	Westerfeld.

##### Nays—19.

Beck.	Neal.
Burns.	Nelson.
Collie.	Oneal.
Cotten.	Pace.
Davis.	Poage.
DeBerry.	Redditt.
Hill.	Small.
Hornsby.	Van Zandt.
Isbell.	Woodruff.
Martin.	

##### Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

H. B. No. 77 was read third time and finally passed by the following vote:

##### Yeas—20.

Beck.	Martin.
Blackert.	Neal.
Burns.	Nelson.
Collie.	Oneal.
Cotten.	Pace.
Davis.	Poage.
DeBerry.	Redditt.
Hill.	Small.
Hornsby.	Van Zandt.
Isbell.	Woodruff.

##### Nays—7.

Hopkins.	Stone.
Moore.	Sulak.
Sanderford.	Westerfeld.
Shivers.	

##### Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

##### Motion to Reconsider.

Senator Woodruff moved to reconsider the vote by which H. B. No. 77 was finally passed.

The motion to reconsider prevailed by the following vote:

##### Yeas—21.

Beck.	Neal.
Blackert.	Nelson.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Redditt.
DeBerry.	Small.
Hill.	Van Zandt.
Hornsby.	Westerfeld.
Isbell.	Woodruff.
Martin.	

##### Nays—6.

Hopkins.	Shivers.
Moore.	Stone.
Sanderford.	Sulak.

##### Absent—Excused.

Fellbaum.	Rawlings.
Holbrook.	Regan.

H. B. No. 77 was read third time and finally passed by the following vote:

**Yeas—21.**

Beck.	Neal.
Blackert.	Nelson.
Burns.	Oneal.
Collie.	Pace.
Cotten.	Poage.
Davis.	Redditt.
DeBerry.	Small.
Hill.	Van Zandt.
Hornsby.	Westerfeld.
Isbell.	Woodruff.
Martin.	

**Nays—6.**

Hopkins.	Shivers.
Moore.	Stone.
Sanderford.	Sulak.

**Absent—Excused.**

Fellbaum.	Rawlings.
Holbrook.	Regan.

**Verification Called For.**

Senator Moore called for verification of the vote on final passage of H. B. No. 77.

Verification showed the roll call to be correct.

**House Bill No. 46.**

Senator Isbell moved to reconsider the vote by which Committee Amendment No. 11 was tabled and spread the motion on the Journal.

**Point of Order.**

Senator Van Zandt raised the point of order that the motion was out of order as the vote to table is final.

The Chair sustained the point of order.

**Resolutions Referred.**

H. C. R. No. 15 was referred to the Committee on State Affairs.

H. C. R. No. 11 was referred to the Committee on State Affairs.

H. C. R. No. 20 was referred to the Committee on Federal Relations.

**House Bill No. 46.**

Pending business was H. B. No. 46 with pending Small amendment to the Davis substitute for Committee Amendment No. 17.

Senator Small had the floor and yielded to Senator Stone.

**Motion to Recess.**

Senator Stone, at 6:25 o'clock p. m., moved that the Senate recess until 10:00 o'clock a. m. Monday.

Senator Poage moved that the Senate recess until 10:00 o'clock a. m. Saturday.

**Recess.**

The motion to recess until Monday prevailed by the following vote:

**Yeas—15.**

Beck.	Redditt.
Burns.	Sanderford.
Cotten.	Shivers.
Hopkins.	Small.
Martin.	Stone.
Moore.	Sulak.
Neal.	Van Zandt.
Pace.	

**Nays—9.**

Blackert.	Nelson.
Collie.	Oneal.
Davis.	Poage.
Hill.	Westerfeld.
Hornsby.	

**Absent—Excused.**

DeBerry.	Rawlings.
Fellbaum.	Regan.
Holbrook.	Woodruff.
Isbell.	

**APPENDIX.****Committee on Engrossed Bills.****Committee Room,**

Austin, Texas, Nov. 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 27 carefully examined and compared and find same correctly engrossed.

DAVIS, Chairman.

**Committee on Enrolled Bills.****Committee Room,**

Austin, Texas, Nov. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 4 carefully examined and compared and find same correctly enrolled.

POAGE, Chairman.

**Committee Room,**

Austin, Texas, Nov. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 13

carefully examined and compared and find same correctly enrolled.

POAGE, Chairman.

#### Committee Reports.

Committee Room,

Austin, Texas, Nov. 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 77, A bill to be entitled "An Act defining the term 'open saloon'; creating a Board of Liquor Control; prescribing rules and regulations, the right of local option; prescribing permits, and otherwise regulating the sale of the various liquors mentioned in this Act; defining terms; prescribing punishments; providing a saving clause, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the committee substitute in lieu thereof do pass, and that the committee substitute only be mimeographed.

PACE, Chairman.

Committee Room,

Austin, Texas, Nov. 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. C. R. No. 3, A concurrent resolution "Granting Herman Voges permission to bring suit against the State of Texas."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

PACE, Chairman.

Committee Room,

Austin, Texas, Nov. 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. C. R. No. 10, A concurrent resolution on Unicameral Legislature.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

PACE, Chairman.

Committee Room,

Austin, Texas, Nov. 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 29, A bill to be entitled "An Act reappropriating an appropriation of seventy-five thousand (\$75,000.00) dollars made by Acts of the Regular Session, Forty-fourth Legislature, Chapter 352, page 868, for the purpose of remodeling and re-equipping hospital building at the State Hospital for crippled and deformed children at Galveston, Texas; provided that said appropriation shall be used for the purpose of erecting a new hospital building; appropriating an additional thirty-five thousand (\$35,000.00) dollars for such purpose; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

REDDITT, Chairman.

Committee Room,

Austin, Texas, Nov. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 28, A bill to be entitled "An Act to amend Chapter 3 of Title 42 of the Revised Civil Statutes of Texas of 1925 by adding thereto a new article to be known as Article 2033-B, etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

SMALL, Chairman.

Committee Room,

Austin, Texas, Nov. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. C. R. No. 10, Requesting the Governor of Texas to submit the subject of the granting to judges of courts having original criminal jurisdiction the right to suspend sentences and place defendants on probation,

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

STONE, Chairman.

#### Minutes of Committee Meetings.

Minutes of Committee on State Affairs, Held November 7, 1935.

#### Called Meeting.

Present: Pace, Blackert, Collie, Cotten, DeBerry, Holbrook, Hopkins, Hornsby, Isbell, Martin, Moore, Oneal, Rawlings, Regan, Shivers, Stone, Sulak, Redditt.

Absent -- Excused: Fellbaum, Small.

S. C. R. No. 10 was reported with the recommendation that it do not pass, by a viva voce vote.

H. C. R. No. 3 was reported favorably with the recommendation that it do pass and be not printed, by a viva voce vote.

S. B. No. 19 was reported with the recommendation that it do not pass, but that the committee substitute in lieu thereof do pass, and that the committee substitute only be mimeographed, by a viva voce vote.

ELIZABETH SUITER,  
Secretary.

#### ELEVENTH DAY—Continued.

Senate Chamber,  
Austin, Texas,  
November 11, 1935.

The Senate met at 10 o'clock a. m., pursuant to recess, and was called to order by Lieutenant Governor Walter F. Woodul.

#### House Bill No. 46.

Pending business was H. B. No. 46 with pending Small amendment to the Davis substitute for Committee Amendment No. 17.

Senator Small had the floor.

Senator Small yielded to Senator Nelson.

#### S. C. R. No. 16.

Senator Nelson received unanimous consent to suspend the regular order of business and send up the following resolution:

Whereas, Seventeen (17) years ago, after four (4) years stupendous

and bloody spectacular struggle of the major nations of the world in an effort to stamp out militarism and the theory that "might makes right," the order was given at the eleventh hour of the eleventh day of the eleventh month of the year to "cease firing!" and

Whereas, The people of the nations so disillusioned by the madness and destruction of war hailed with wild acclaim this hour which gave them respite, and have each succeeding year upon the anniversary of that day shown an increasing distaste for that method of settling difficulties, to the extent that this day finds our entire nation, led by our illustrious President, in one solid phalanx demanding every precaution to prevent war, and

Whereas, We delight to renew our expression of gratitude to those who gave their lives and to those who in any way sacrificed their comfort and happiness that our ideals of freedom and democracy might remain intact; now, therefore, be it

Resolved, That the Senate and House of Representatives invite the senior member of the Senate, Honorable T. J. Holbrook, who is an orator capable of expressing our sentiments on this subject in a fitting manner, to address the Legislature of the State of Texas in joint session at 11 a. m. today.

NELSON.

Read.

Senator Nelson asked unanimous consent to suspend the rule requiring resolutions to be referred to a committee, as to S. C. R. No. 16.

Unanimous consent was granted.

S. C. R. No. 16 was adopted unanimously.

#### Message From the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following message:

Hall of the House of Representatives,  
Austin, Texas, Nov. 11, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

S. C. R. No. 14, Authorizing the State Board of Control to transfer, sell or store any of the office furni-